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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 August 1990, at 4 p.m.

Chairman: Mr. TÜRK
later: Mr. TREAT

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The meeting was called to order at 4.25 p.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (continued) (E/CN.4/Sub.2/1990/13 and Add.1)

1. Mr. SADI said that the Special Rapporteur's report had had a vital impact on the international struggle against apartheid, through the pressure it had exerted on Governments and corporations to yield to international opinion. He had no doubt that apartheid was on its way out. His only concern was that although it might end officially, it might continue de facto. He therefore shared the view that the Special Rapporteur should maintain his vigilance.

2. The new situation that was emerging in South Africa offered a glimmer of hope for negotiations. The problem was how to translate the official death of apartheid into reality, how to change the state of mind of white people, how the international community could give economic aid to ventures and businesses in South Africa which were carrying out projects in which black people were given equal opportunities with white people. The only way was to continue the struggle against apartheid and he hoped that the Special Rapporteur would be able to suggest guidelines on how to translate the official end of apartheid into de facto abolition and to persuade the white population to accept their fellow black people as equals. He reserved the right to speak on the draft resolution when it was presented.

3. Mr. EIDE said that the struggle against apartheid had been an uphill one and it had taken 17 years to see any change. It must be remembered, however, that a monster had been created over centuries and consolidated with ruthless determination since 1948, and it was only the tip of the iceberg that had started to melt.

4. There were grounds for optimism, and the current dialogue between the African National Congress and the present South Africa Government was a remarkable demonstration of courage on the part of the leaders of both sides. There should be no misapprehension, however: the struggle to overcome the resistance to changing the racist system would be long, hard and difficult.

5. In his own study on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1), he had listed seven areas in which the change or lack of change in the apartheid system could be assessed: land and citizenship, the racist classification system, political rights, education, segregation of human relations, job reservations and trade unions. In paragraph 281 and the succeeding paragraphs he had examined the situation in 1988-1989 and had made observations which could now be compared with those in the report presented by the Secretary-General on Progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa (A/44/960). That report (pages 6-59), together with information provided by Governments and others, made it possible to identify what had taken place in a number of the areas studied.

6. As indicated in his own report (E/CN.4/Sub.2/1989/8 and Add.1), in the most important area, land and citizenship, the economic and political foundations of apartheid had preceded by many decades the emergence of the Nationalist Party and the formal introduction of apartheid in 1948, going back to the appropriation of vast areas of land by white people, formalized by the Native Land Act of 1913. The stated goal had been, through the Black Authorities Act of 1951, to give those territories self-government and eventually independence, but the obvious intention had been to deny the African people citizenship in South Africa. That was the most serious anti-democratic and racist aspect of the system and there was no indication of any reversal of that policy by the present South African Government.

7. As reported in paragraph 189 of document A/44/960, the Ministry of Planning and Provincial Affairs had stated, among other things, that while the Land Act and the Group Areas Act were to be repealed, such repeal had to be approached with care, the argument being that property rights were involved and protective legislation had to be negotiated. In other words, under the present system black farm land could not be purchased by white people, but should the Act simply be repealed, white people could purchase the land, to the detriment of the black population. The bitter truth of that argument was that, as a consequence of the enrichment arising from the distribution of land, job reservation, and so forth, on which apartheid had been built, the white people's purchasing power was vastly superior to that of the black population. Repeal of the Land Act without taking into account the necessary transfer of resources to the impoverished black population would have the strange consequence which was now being used as a pretext by the Minister of Planning and Provincial Affairs, but which showed how profoundly thorough the change would have to be if it were to have real effect in terms of social justice.

8. There were other elements, too. As indicated in paragraph 221 of the Secretary-General's report (A/44/960), the strict separation of schools was being phased out and a policy being introduced under which it would be left to white parents to decide to open their schools to all races. But, as stated in paragraph 220, the Government believed that immediate equality would cause so much disruption that it would outweigh the benefits and had advocated a phased approach.

9. Bearing in mind the basic structural aspects of apartheid which had built up over long years, there was no prospect of quick transformation - it would be a matter of hard and difficult political struggle. The efforts of the international community must be harnessed to the full to achieve equality and justice in South Africa. That meant not merely removing some of the superfluous elements of apartheid, but the use of continuous pressure to face up to the substantial structural problems. Sanctions must be maintained, even increased, and the United Nations must continue to call for global participation in all efforts. Sanctions must be directed against the South African economy, military apparatus and the administration which operated the illegitimate system. Furthermore, the United Nations, in co-operation with liberation movements and anti-apartheid movements inside South Africa, must develop guidelines for international co-operation with all the organizations and entities within South Africa which were actively struggling to change the system and bring about a democratic society.

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10. He had been greatly impressed by the sound arguments of the Special Rapporteur and Mr. Treat. He shared Mrs. Warzazi's concern about the inter-ethnic conflict in South Africa and strongly endorsed what Mr. Sachar had said about the possibility of the splitting up of the non-white political opposition in South Africa for individual political gain instead for the achievement of social justice and democracy in South Africa.

11. Lastly, he endorsed the proposal that the Special Rapporteur should now seek ways of conducting a field study in South Africa; perhaps the Sub-Commission could request the Secretary-General, through the Commission on Human Rights, to apply to the South African authorities.

12. Mrs. MBONU deplored the fact that some of the newly-liberated countries of Eastern Europe were supporting the South African régime. Hungary's flirtation with the apartheid régime should be totally condemned, and the Foreign Minister of her country had summoned the Hungarian Ambassador in Lagos to protest at his Government's decision to renew diplomatic relations with South Africa. The East European countries, now savouring their own freedom, should not deny the same freedom to the black majority of South Africans by supporting the racist régime of South Africa. She joined with the Special Rapporteur in expressing appreciation of those who were not moved by South Africa's cosmetic and diplomatic manoeuvrings.

13. In view of the Special Rapporteur's important work for the nearly 30 million black people in apartheid enclaves, she supported the renewal of his mandate and a request that the Secretary-General should provide all possible financial and logistic assistance.

14. The issue now under consideration had been before the Sub-Commission since its twenty-sixth session. At its previous session, the Sub-Commission had been informed of the tactics employed by many transnational corporations operating in South Africa to avoid total withdrawal from participation in the South African economy. In paragraph 12 of his updated report (E/CN.4/Sub.2/1990/13), the Special Rapporteur revealed that since 1984 a large number of transnational corporations which had sold their South African subsidiaries were maintaining non-equity ties with the host country and thus defeating the purpose of disinvestment. The methods employed enabled departing firms to continue their presence indirectly in the host country and ensure continuity in the transfer of technology. The withdrawal tactics described in paragraphs 18 to 25 of the report showed a common trend, namely, a lack of political will on the part of the transnational corporations which, through their collaboration with the South African Government, had helped the régime to circumvent trade sanctions.

15. If sanctions had not yet been as effective as they should be, if the pillars of apartheid were still standing, it was mainly because sanctions had been neither mandatory nor comprehensive and because their effectiveness had been undermined by the activities of sanction-breakers. That did not mean that sanctions had not worked. The limited sanctions imposed by the international community had taken their toll of the South African economy. In paragraphs 28 to 36 of the report, the Special Rapporteur enumerated the structural weaknesses of the apartheid economy and in the succeeding paragraphs

he indicated the measures taken by the Government of South Africa to counter sanctions - for example structural adjustment programmes such as privatization of public enterprises and corporations.

16. She noted in paragraphs 52 to 60 of the report the shortcomings in the measures adopted by foreign Governments to implement economic sanctions against South Africa. In trade, South Africa had been able to evade sanctions by diverting imports and exports through third countries and offshore facilities, and some of the countries collaborating with the apartheid régime went so far as disguising the South African origin of products, by false labelling, false certificates of origin and transformation as in the case of coal channelled to Europe through Rotterdam and Antwerp. It was regrettable, too, that some countries were only waiting in the wings to step into the shoes of disinvestors, the most guilty being countries in the Far East and Europe. In spite of world condemnation of apartheid, the list of countries still doing business with the régime filled a 100-page report.

17. Despite the limited sanctions imposed by the international community, there was no doubt that sanctions were effective, as witnessed positive changes taking place in South Africa. Moreover, as a result of "people's sanctions", targeted against the major banks and corporations doing business with South Africa, there had been a marked decline in new bank lending and foreign investment in South Africa. As noted in paragraph 57 of the report, the ban on new loans and credits to South Africa had been the most effective form of pressure. It was clear that if the pressure were increased, the cost of maintaining apartheid would become prohibitive and the South African Government would have no alternative but to dismantle apartheid. What was needed was the political will of all nations.

18. Mrs. KSENTINI thanked Mr. Khalifa for his excellent report, updated list and introductory speech. She was glad to note that since Namibia had acceded to independence the report no longer covered that country, and that, with the mobilization of international opinion, the list was becoming smaller; perhaps one day if South Africa were to abolish apartheid, there would be no further use for it. Unfortunately that was not yet the case, despite recent encouraging developments. Vigilance was still necessary and mandatory sanctions still needed. They must not be relaxed but rather intensified, as other members of the Sub-Commission had already pointed out in endorsing the appeal launched by Mr. Nelson Mandela in his recent round of foreign visits.

19. Mr. Khalifa had listed a series of practices resulting in disinvestment being diverted from its original objective, and had shown how South Africa had been able to reschedule its debt repayments, thus enabling it to put off the promised reforms.

20. The struggle of the people of South Africa and international solidarity had led South Africa to embark upon a dialogue. International pressure should therefore not stop until the apartheid system had been completely dismantled and until a truly democratic State with majority rule had been established.

21. Even though sanctions were sometimes circumvented with the help of accommodating Governments, including Israel, which was developing new forms of military co-operation with South Africa, the economy of South Africa had been

hurt, as Mr. Khalifa had shown. He had also pointed out the disastrous consequences of renewed assistance to South Africa just when the régime was beginning to listen to the concerns of the majority. He had rightly pointed out that the list had succeeded in discrediting many companies, which had finally stopped investing in South Africa, and that it had helped to foster a sense of guilt and an awareness of the moral issues involved. The contribution made by Mr. Khalifa's reports would certainly appear in the history of the fight against apartheid. But since that history was still being written, there was still a need for the annual report and the list. Mr. Khalifa's mandate should therefore be extended and the Sub-Commission should consider whether he should go to South Africa, and should provide him with the necessary assistance to carry out his mandate.

22. Mr. Treat took the Chair.

23. Mr. PHEKO (Observer, Pan Africanist Congress of Azania) said that there had been dangerous euphoria regarding South Africa since Mr. F.W. de Klerk's statement of 2 February 1990 resulting in the unbanning of some political organizations and the release of some political prisoners including Mr. Nelson Mandela. But the truth was that there had been no fundamental change in South Africa. The apartheid system was still intact.

24. Since March there had been four massacres of Africans, not including the killings at Port Elizabeth on 9 August and in Pretoria on 11 August. Leaders and members of political parties who refused to collaborate with the régime to perpetuate the apartheid system had died mysteriously in "road accidents" carried out by a new form of hit squad to eliminate political opponents. In April and May 1990, the Pan Africanist Congress of Azania had lost three of its leaders. Four others had been injured and hospitalized. In another ugly incident a PAC member had been assassinated with his entire family and there had been further mysterious road accidents and shootings.

25. There were over 2,000 political prisoners in South Africa, including the Rev. Daniel Nkopodi of the African Methodist Episcopal Church, Mr. Jackie Seroke, managing director of the only indigenous publishing house in South Africa, imprisoned for alleged PAC activities, and Mr. Enock Zulu, deputy commander of the Azanian People's Liberation Army. Two hundred and seventy three political prisoners had been sentenced to death but had not yet been executed.

26. The defence budget of the South African régime was two and a quarter billion pounds and the exclusively European army was still conscripting members. Israel was reported to be helping South Africa acquire nuclear capability. Weapons were being issued to whites at an average of 34 a day. Many immigrants joined the South African army, which was being used to suppress the dispossessed indigenous African majority in their struggle for self-determination.

27. Another disturbing matter was the massive recruitment by South Africa of immigrants from Eastern European countries and from Hong Kong. Over 48,000 applications from Eastern European countries alone had been processed, and there were over 16,000 Poles already in the country. That had exacerbated the already acute situation of unemployment among the indigenous people of South Africa and diminished their opportunities to acquire skills.

28. Even when there was talk of negotiations, South Africa was still maintaining its slavery-like practices of apartheid and colonialism. The present negotiation exercise in fact involved co-option, collusion, appeasement of the oppressors and hypocritical rhetoric. The régime was looking for "moderates" which the majority of the people regarded as being used by the régime to reform apartheid. But genuine negotiations could take place only once majority rule, the redistribution of resources and a Constituent Assembly elected on a non-racial basis of one person, one vote were included on the agenda by the South African régime. All political parties would take part in the elections for the proposed Constituent Assembly, and would be represented according to the proportional representation system, which would ensure that all authentic representatives of the Azanian people were included. The elected members of the Constituent Assembly would then appoint a group of constitutional experts together with whom they would draft the constitution of a liberated Azania.

29. Since a constitution was a nation's basic law, it was very important for it to be written by its democratically elected representatives. Such a process would avoid collusion and secret deals with the régime by the less vigilant, manipulated forces of the indigenous minority. It would also prevent the subsequent rejection by the dispossessed African majority of a constitution that had been drawn up in an undemocratic manner.

30. Mr. de Klerk, in his statement of 19 April 1990 to the South African Parliament, had said: "There are really only three basic alternatives with which to replace the existing constitutional model ... They are partition, simplistic majority rule on the basis of one man, one vote or power sharing ... Majority rule tends to impose unity at the expense of diversity ... We believe that majority rule is not suitable for a country like South Africa because it will lead to the domination and even suppression of minorities. This applies to a unitary system and to the typical geographical federation ... Those who enjoy full political rights at the present are not prepared to bow out apologetically from the stage of history. On the contrary a key role awaits them in the new dispensation. We shall not throw the freedom and values that have been built over three and a half centuries overboard."

31. Could apartheid be called "freedom and values"? Could the genocidal Land Acts of 1913 and 1936 which robbed Africans of 87.5 per cent of their land and wealth be classified as "values"? Could colonialism be regarded as "freedom and values"?

32. In all colonial situations in Africa "power-sharing" had always meant minority racist rule. The Bantustan system was such a form of so-called power-sharing. In an earlier Constitution, the whites who constituted 13 per cent of the population had had 153 seats while the indigenous African majority had three European representatives. His organization's own understanding of power-sharing was that set out in the 1914 petition to King George V to the effect that the indigenous African majority should be put into possession of land in proportion to their numbers and on the same conditions as the white race. The so-called negotiations of a colonialist apartheid régime which openly rejected majority rule could not be taken seriously by genuine representatives of the African people of Azania.

33. An important element missing in the so-called negotiations to end slavery, apartheid and colonialism in South Africa was a neutral impartial chairman or arbiter from the international community to supervise the "negotiations" and see that there were internationally observed free and fair elections. In the present exercise, Mr. de Klerk was both player and referee, prosecutor and judge.

34. Mrs. PIRES (National Aboriginals and Islanders Legal Services Secretariat) said that since the Sub-Commission's previous session momentous changes had taken place in South Africa, including the independence of Namibia, the release of Mr. Nelson Mandela, direct talks between anti-apartheid and democratic groups and the white minority régime and continuing initiatives to end the war of destabilization in Mozambique and Angola. The apartheid system had had a devastating impact on the lives and economies of the people of the entire region. A study by the Southern Africa Development Co-ordinating Conference (SADCC) had revealed that the damage inflicted upon the economies of Angola, Zimbabwe and Mozambique in particular amounted to many millions of dollars, and there had been enormous numbers of displaced, injured and permanently disabled persons in southern Africa.

35. As Mr. Khalifa's report (E/CN.4/Sub.2/1990/13 and Add.1) showed, economic sanctions had had an impact on South Africa. However, her organization was concerned that too much emphasis was being placed on sanctions against South Africa almost as an end in itself at the expense of truly constructive engagement with the front-line States that for the past 15 years had borne anti-apartheid campaign. Constructive engagement would involve a massive infusion of developmental assistance, rebuilding of roads, railways and harbours as well as management training for the countries of southern Africa. While heartened by the changes in Eastern Europe, her organization would not be happy to see obsessive attention being given to those countries at the expense of the millions of black people in southern Africa who had suffered under the apartheid régime.

36. Mr. Khalifa's report contained details of the proposed privatization of public enterprises and corporations. Some saw those moves as a pre-emptive effort by the white minority régime to ensure that economic control was retained in white hands in the event of a shift in political control to the black majority. But the denial of the right to self-determination in all its forms was a source of instability. If the eventual black majority Government of South Africa did not have effective control of its economy, the struggle against apartheid would only have been partially won.

37. The denial of the right to self-determination had been the direct cause of numerous other human rights violations such as, for example, the invasion of Kuwait by Iraq and the continuing illegal occupation of the territory of East Timor by Indonesia. The imposition of sanctions against South Africa had no doubt played a major role in forcing the white minority régime to rethink its policies. The imposition of sanctions against Iraq because of its invasion and occupation of Kuwait was a necessity for the preservation of international law and order, and of the credibility of the deterrence element of the collective security system constituted by the United Nations Security Council. It was only regrettable that in the past and in other circumstances the major industrial Powers had not taken swift and effective

measures that would have discouraged other acts of aggression. The invasion and occupation of East Timor, although condemned by the Security Council, had not been followed by punitive measures that would have encouraged Indonesia to desist from further aggression. The highly credible reports emanating from Asia Watch, Amnesty International and an independent study by a prominent group of sociologists from the Indonesian National University of Gadja Madha had revealed that the human rights situation in East Timor had deteriorated since the previous session of the Sub-Commission.

38. Mr. PHARAON (Observer for the Syrian Arab Republic) thanked Mr. Khalifa for his comprehensive report. Although the United Nations had condemned apartheid and had adopted resolutions calling for a boycott of the South African régime, the embargo had not led to the desired results. Financial interests had continued to co-operate with the racist régime. Some States had not taken severe measures, while others had called for a relaxation of sanctions on account of the changes that had recently taken place in South Africa.

39. The régime in Pretoria had been able to survive because of the external support which it received, especially in the military field. For example, it was deriving great advantage from its co-operation with Israel. As a result, it had the strongest army in the region, with missiles capable of striking at African capitals and a nuclear capacity. Thus Israel was supporting racism. The sanctions must therefore be strictly applied in order to put an end to racism, as Mr. Mandela had urged.

40. Mrs. GABR (Observer for Egypt) said that the accurate lists which Mr. Khalifa had been providing since 1982 merited careful attention. The Special Rapporteur had explained the importance of sanctions, which had had a very positive effect in supporting the struggle being waged by the African people to dismantle apartheid, even though certain Governments and transnational corporations were endeavouring to get round them by allowing South Africa to keep its markets and to obtain new credit facilities and investments. In fact, the effectiveness of sanctions would have been greater if the United Nations had established a supervisory machinery for their enforcement.

41. Nevertheless, the cessation of co-operation with the South African régime had greatly strengthened the will of the black population to resist and had led to a dialogue. The next stage would be decisive for the new constitutional order. Some people were optimistic and considered that apartheid was on the point of collapse. However, the process was only just beginning. The African National Congress had declared an end to the armed struggle, but the South African Government was continuing to apply emergency measures. The international community must therefore pursue its economic boycott, as requested by Mr. Mandela, so that a new régime could emerge. Her delegation hoped that Mr. Khalifa would continue to submit his reports to the Sub-Commission.

42. Mr. Turk resumed the Chair.

43. Mr. SENE (Observer for Senegal) said that there had been an unprecedented evolution in the situation in South Africa during 1990 reflected in the liberation of Mr. Nelson Mandela and the independence of Namibia. The emergence of Namibia as an independent State with a democratic, bicameral, pluralist and multi-racial system represented in itself a triumph for the United Nations. Mr. Mandela's visit to the 77th session of the International Labour Conference in Geneva had been a unique opportunity to hear from him as the universal symbol of the struggle of the black peoples of South Africa against apartheid. In his message to the Conference, Mr. Mandela had thrown light on the situation in South Africa which continued to be both complex and difficult. While in Geneva, Mr. Mandela had asked the Ambassador of Senegal to convey his thanks to the Sub-Commission whose efforts had contributed to his release.

44. Mr. Mandela had welcomed the initiative taken by the African National Congress and the Government of President de Klerk in their efforts to reach a peaceful settlement and to avoid a blood bath. Without doubting the good faith of President de Klerk and his Government, Mr. Mandela had stressed his concern at the regressive attitude of his white compatriots who were opposed to any change; he had expressed the hope that such an attitude would not stop the march of progress. He had stressed in particular that it must not be forgotten that the whole system of apartheid was still in place and continued to provoke hatred and violence. By way of example, he had referred to police repression in Natal and the resultant massacres. Progress had been made in removing obstacles, but much remained to be done. There continued to be many political and trade union prisoners and persons exiled for political and trade union activity had not yet been permitted to return. There was a particular need to start negotiations for dismantling the pillars of apartheid such as the Population Registration Act, the Land Act and the Bantustan system as well as segregation in education and, health care and denial of the vote to the black majority. Only through honest negotiations between the parties aimed at designing the structure of a new constitutional order based on respect for the human rights of all, would it be possible to build a South African State which would be non-racial and democratic, in which all citizens would enjoy their human rights and freedoms including the right to citizenship and nationality.

45. It was therefore essential that the United Nations should closely monitor the process for the peaceful settlement of the problem by bringing the necessary pressure to bear on the South African Government and encouraging it to pursue dialogue with the representatives of the black majority in order to elimir te, as a matter of urgency, all obstacles to negotiations.

46. Mr. Treat had spoken of intellectual co-operation and exchange of ideas. In that connection he recalled the role of the President of Senegal in the efforts to initiate dialogue. President Abdou Diouf had been the first President of OAU to visit all the front-line and neighbouring countries before submitting the case of southern Africa to the United Nations General Assembly in October 1985. He had subsequently visited Washington to make useful contacts with the competent authorities, including Congress, universities and anti-apartheid organizations. Congress had adopted an anti-apartheid law notwithstanding the opposition of President Reagan, who however had nominated a black Ambassador to Pretoria. President Abdou Diouf had also presided over the June 1986 world conference on sanctions against South Africa held in Paris.

Finally, in 1987, a meeting had taken place in Dakar between delegations representing South African white liberals and members of the ANC with a view to exploring peaceful means of achieving a democratic alternative. That dialogue had been continued in Paris and London in 1989 and was currently continuing in South Africa. An agreement had also been reached on 7 May 1990 between organizations representing respectively the workers and employers in South Africa for the purpose of amending the law on professional relations so as to take full account of trade union freedoms and workers' rights. It was to be hoped that the relevant legislation would be adopted shortly. A regional symposium had also been proposed with a view to clarifying practical prospects for regional integration, including a South Africa freed from the yoke of apartheid, and for the creation of a democratic and multiracial society based on the principle of one person, one vote.

47. What was at stake in South Africa was the destiny of the black people hitherto excluded from international relations and contact with the outside world. In future they must be able to participate fully in the construction of a new South Africa based on fraternity and dignity.

48. The CHAIRMAN, on behalf of all members, thanked the representative of Senegal for conveying Mr. Mandela's message to the Sub-Commission.

PROTECTION OF MINORITIES (agenda item 18) (E/CN.4/Sub.2/1990/46; E/CN.4/1990/41; E/CN.4/Sub.2/1989/43) (continued)

49. Mr. ALFONSO MARTINEZ, speaking in exercise of the right of reply to a statement made by the representative of Israel at the 11th meeting when he himself had been absent owing to pressure of work, said that he would first like to thank the representatives of India, Morocco, Jordan and Algeria who had made comments which he might himself have made, had he been present.

50. He had listened to the tape-recording of the statement by the representative of Israel who had confirmed what he himself had said, namely, that there had been allegations regarding the distribution to the civilian population of Israel of protective material against chemical war; those allegations had been repeated in the press, including the Israeli press, thus confirming their existence. The representative of Israel had also said that the Minister of Defence was aware of the allegations and had stated that they were false. In his own view, the fact that the Minister of Defence had stated that certain allegations were false did not mean that they were actually false. It would not be the first time that statements by responsible officials had not corresponded to the truth.

51. The representative of Israel had used the word "obscene" to characterize his statement. He was not surprised at the use of the word which had been used in 1975 by Zionist sources to describe General Assembly resolution 3379 (XXX). If there was anything obscene it was that, 45 years after the overthrow of nazism in Germany, a Government representing the Jewish people, who had suffered so greatly under the Nazis, was perpetrating similar atrocities against the Palestinian people whose right to self-determination it was denying through military occupation.

52. Mrs. PALLEY regretted that a straightforward issue of what had been said and whether what had been said should perhaps be withdrawn had become distracted into other issues. She believed that it was wrong to attack a member of the Sub-Commission and she had been particularly careful at the morning meeting not to attack the expert from Cuba. What she had in fact asked him to do was to withdraw a statement. She had listened to the tape of what he had said. Mr. Alfonso Martínez had referred to a statement by Mr. Littman, who had suggested that the reason for the difficulties in the Middle East was the "zionism as racism" resolution; Mr. Alfonso Martínez had quite rightly disputed that and had said that the reasons for conflict were basically the expansionist and aggressive role of Israel. He had then gone on to say: "To finish illustrating that fact, the permanent force of this resolution is proved by the Zionist Government now through the announcement and practice that, faced with the threat of chemical war, the gas masks that are distributed to the civilian population are not distributed equally. They are just given out to some sections of the population and those who do not belong to the so-called Ashkenazi community have no chance of receiving the method of defending themselves." He had then added that Mr. Littman, who so often had recourse to the international press, might have read a report to that effect or heard it on the radio.

53. Her own view was that Mr. Alfonso Martínez had made it quite clear that what he had said was fact and represented proof. In her opinion, there was no proof. A very serious allegation had been made; she had taken Mrs. Warzazi's point and would be very happy to see the allegation investigated. If it was true, it would lead to terrible condemnation of Israel; if it was not true, Israel should be absolved.

54. Mr. ALFONSO MARTÍNEZ said that he stood by what he had said. It was a fact that there had been allegations that the Israeli authorities were going to study the possibility or had taken a decision to distribute protective material in a discriminatory manner. It would not be the first time that the Israeli authorities had shown discrimination towards its population. There were many examples of discriminatory practices as between not only the different Jewish sects in Israel but also in regard to the non-Jewish population. In no circumstances would he withdraw his statement.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10; E/CN.4/1990/3, 24, 25, 26, 27, 45 and Add.1, and 52; A/44/620)

55. Mr. MARTENSON (Under-Secretary-General for Human Rights), recalled that, by resolution 8 (XXIII) of 16 March 1967, the Commission on Human Rights had decided to give annual consideration to the item which he was now introducing. In paragraph 2 of that resolution, the Commission had requested the Sub-Commission to prepare a report containing information on violations of human rights and fundamental freedoms from all available sources. In paragraph 6, the Commission had invited the Sub-Commission to bring to the attention of the Commission any situation which it had reasonable cause to

believe revealed a consistent pattern of violations of human rights and fundamental freedoms in any country, including policies of racial discrimination, segregation and apartheid with particular reference to colonial and other dependent territories. In its resolution 1235 (XLII) of 6 June 1967, the Economic and Social Council had authorized the Commission and the Sub-Commission to examine information relevant to gross violations of human rights and fundamental freedoms contained in the communications listed by the Secretary-General pursuant to Economic and Social Council resolution 728 F (XXVIII) of 30 July 1959 and had further authorized the Commission to make a thorough study of situations which revealed a consistent pattern of violations of human rights.

56. The degree of implementation of the legislative infrastructure for the promotion and protection of human rights at present at the disposal of the international community certainly required to be examined constantly. That task was at the heart of the United Nations human rights programme and it was only logical that the Sub-Commission was called upon to make its own contribution to that very important exercise. Indeed, the roots of many procedures now firmly in place could be found in suggestions which had originated in the Sub-Commission. As the international community worked towards a further strengthening of the existing system, the Sub-Commission would continue to play a very important role in that regard. It would, moreover, have to reflect on any situations which might have arisen since the latest sessions of the Commission on Human Rights and of the Economic and Social Council.

57. To facilitate the Sub-Commission's discussion on some of the situations under consideration, the Secretariat had placed before it a list of reports, studies, statistics and other documents relating to the question of Palestine and other Arab territories, prepared pursuant to Sub-Commission resolution 1989/4 (E/CN.4/Sub.2/1990/15); a report by Mr. Despouy on the evacuation of war-wounded and disabled in El Salvador, prepared pursuant to Sub-Commission resolution 1989/9 (E/CN.4/Sub.2/1990/18); a note by the Secretary-General on the situation of human rights in the Islamic Republic of Iran, prepared pursuant to Sub-Commission resolution 1989/10 (E/CN.4/Sub.2/1990/16); and a report by the sessional working group established pursuant to Sub-Commission decision 1989/104 in order to prepare an overview and an analysis of the suggestions and proposals which had been made so as to enable the Sub-Commission to better discharge its responsibilities in dealing with violations of human rights (E/CN.4/Sub.2/1990/14). Agenda item 6 was particularly important, and at a time of heightened tensions it was only appropriate to appeal to members of the international community to ensure full respect for the human rights and fundamental freedoms of all individuals, both nationals and foreigners.

The meeting rose at 6.15 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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GE.90-12738/2525B

The meeting was called to order at 10.25 a.m.

STATEMENT BY THE CHAIRMAN

1. The CHAIRMAN, reporting on developments in the conflict between the Mohawk Indians and the Quebec authorities in Canada, said that the Government of Canada had informed him that the International Federation of Human Rights (IFHR), the Mohawk Nation, the Government of Quebec and the Government of Canada had reached an agreement regarding the role of observers to ensure the implementation of the agreement of 12 August 1990. Discussions were continuing with the Mohawks about arrangements for the negotiations. Bernard Roy, the chief federal negotiatior and Alex Paterson, the chief negotiator for the Quebec Government had released a joint statement on 15 August 1990, indicating that they were anxious to start negotiations and hoped that they might begin the next day. On 14 August, General John de Chastelain, Chief of the Defence Staff had advised the media of plans to move units of the Canadian Forces nearer to the areas to be ready to help, if needed.

2. Mr. ALFONSO MARTINEZ said that he wished to inform the members of the Sub-Commission that, on the previous day, at the close of the afternoon meeting, he had been taken to task by the observer of a non-governmental organization. He recalled that a similar incident had already occurred the previous year and said that the recurrence of such acts was prejudicial to orderly deliberations.

3. Mr. van BOVEN, speaking on a point of order, invited members of the Sub-Commission not to raise the question of such altercations, which were not directly related to the work of the Sub-Commission.

4. Mr. EIDE supported Mr. van Boven.

5. Ms. WARZAZI considered that attacks on members of the Sub-Commission should not be taken lightly. The observers of States and of non-governmental organizations should be asked to refrain from making that kind of attack. If some experts felt that they had been taken to task too forcefully, the question should perhaps be brought before the Economic and Social Council.

6. The CHAIRMAN said that he wished to make an appeal for the independence and dignity of experts to be respected; he asked all participants to show understanding and restraint in order to enable the Sub-Commission to continue its work in the usual way.

ELIMINATION OF RACIAL DISCRIMINATION

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS, OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIALIST REGIME OF SOUTH AFRICA (E/CN.4/Sub.2/1990/13 and Add.1) (continued)

7. Mrs. DAES said that in defending the rights of black people in South Africa, the international community was also defending human values in general. As long as it existed, the apartheid régime would constitute a threat and the Sub-Commission should continue its work until the racist régime and its manifestations were totally eliminated.

8. In her opinion, however encouraging the legislative, administrative and social measures taken by the present Government might be, they were only a first step on the road to the complete eradication of that phenomenon. The Sub-Commission should, however, take note of those developments and encourage the parties to end the conflict and to pursue a constructive dialogue in the interest of all the communities in the country.

9. It should not be forgotten that the Sub-Commission had already made a major contribution to the protection of the rights of the black people of South Africa through its many studies, resolutions and recommendations. Members would perhaps recall that already in 1985, the Sub-Commission, under her chairmanship, had sent, through the Commission on Human Rights, an urgent appeal to the Government of South Africa to save Mr. Mandela's life and release him.

10. One of the most important decisions taken by the Sub-Commission was unquestionably that to appoint Mr. Khalifa as Special Rapporteur. She wished to congratulate him on his report (E/CN.4/1990/13 and Add.1) and his introductory statement which had given rise to a constructive discussion and very interesting comments by members, observers for non-governmental organizations and the observer for Senegal in particular.

11. She hoped that the sanctions against South Africa would be maintained and welcomed the decisions and recommendations adopted by the European Economic Community on the subject.

12. She associated herself with the other members who had requested the extension of Mr. Khalifa's mandate and hoped that the Special Rapporteur would be given all the assistance he required to conduct his study and to visit South Africa, as several members had wished. If that project should come to fruition, it would be helpful if Mr. Khalifa could work in consultation with the United Nations Secretary-General and the services able to guarantee him the possibility of accomplishing his mission in complete freedom.

13. Mr. JOINET associated himself with the praise of Mr. Khalifa by the other members of the Committee and congratulated him on raising an extremely serious problem in showing how the South African Government was successfully evading the sanctions imposed upon it and thus impeding the progress towards democracy.

14. Turning to paragraph 56 of the report (E/CN.4/Sub.2/1990/13), which referred to the South African companies that invested abroad, he expressed satisfaction that Mr. Khalifa had, for the first time, drawn up a list of virtually all the leading South African companies operating in major sectors, such as the mining and precious metals industries, underwater and underground mining technologies, electronics, shipping, etc. The growing trend of investing abroad, however, might well undermine the economic base of the future democracy by shielding the key sectors of the economy from government control. In paragraph 32, Mr. Khalifa had also pointed out that minerals accounted for 80 per cent of South Africa's total export earnings.

15. He, therefore, hoped that the sanctions would be maintained and an effort made to foil the dangerous strategy of South African companies as quickly as possible, although it was open to question whether such a measure

was economically and legally possible. He wished, however, his proposal to be reflected in the report to be submitted to the Commission so that Mr. Khalifa could study it in depth.

16. Mr. ALFONSON MARTINEZ congratulated Mr. Khalifa on the quality of the report under consideration (E/CN.4/Sub.2/1990/13 and Add.1) and on his oral presentation. Since the document had not been translated into Spanish, some technical details, especially those on the financial issues raised in the first part of the report, might have eluded him. Paragraphs 18 and 19, which took up the question raised in paragraph 13, indicated that some foreign companies that were disinvesting were managing by indirect methods to keep up their links with South Africa. Thus, the effectiveness of sanctions seemed to him to be called directly into question.

17. Referring to paragraph 28 et seq. of the report, he hoped that the international community would not relax its efforts but instead take action to ensure that sanctions would yield the expected results.

18. It was not the first time that the United Nations had decided on sanctions against a country. There was the case of the former Rhodesia and at present Iraq. On each occasion, the shortcomings in the system set up had allowed the country concerned to foil the international measures. Every effort, therefore, should be made to ensure that the sanctions were effective.

19. With regard to Mr. Khalifa's request that his mandate should not exceed one or two years, he hoped that Mr. Khalifa would reconsider his decision because it seemed particularly important for the Special Rapporteur to continue his work in the years ahead during which major developments could occur. He recalled that Mr. Khalifa's reports were brought to the attention of the Commission on Human Rights and the General Assembly, where they gave rise to some very constructive discussions.

20. Mr. KHALIFA, thanking those who had taken part in the work of the Sub-Commission for their encouraging comments, noted the existence of fairly general agreement that sanctions had helped to bring about positive developments in South Africa and the importance of maintaining, if not strengthening them, until the apartheid system was eliminated. Similarly, the Sub-Commission had considered that an end should be put to the human suffering, by terminating the hostilities between the two camps and inside each camp. Lastly, the Sub-Commission seemed to be of the opinion that he should visit the country in order to study the situation and to obtain first-hand information. By agreeing to such a mission, the Government of South Africa would show that it was sincere in what it said.

21. Mr. Treat had expressed misgivings as to how the future South African society would function. For his part, he felt that the population of Azania was entitled to learn to live in a just and democratic society, even at the cost of mistakes and blunders.

22. He had also listened with a great deal of interest to Ms. Warzazi, Mr. Yimer, Mr. Sacher and Mr. van Boven. He was gratified to learn that Mr. van Boven was a member of the group of independent experts, entrusted by the ILO to supervise the application of sanctions and other measures against apartheid, because Mr. van Boven's work in that group could be helpful to him in his work.

23. Mr. Sadi had wondered whether he could not help to bring about a change in South Africa's attitude. He feared that that was beyond his possibilities and his mandate. Furthermore, he thought, like Mr. Eide, that since the régime in force was deeply rooted in society and there would be very strong resistance to any change in the status quo. Consequently, he considered it essential to be quite sure that the process of dismantling the régime had indeed begun and that it was irreversible. Mrs. Mbonu had observed that a change was taking place in the attitude of some African countries towards South Africa. That development was surprising and disquieting and should be carefully watched.

24. He thanked Mrs. Ksentini and Mrs. Daes for their interesting contributions and Mr. Joinet for having stressed a critical point namely, the expansion of South Africa's activities abroad and for having asked him to explore that aspect further in his economic analysis. In that connection he recalled that since he himself was not an economist, in order to be able to produce a useful report, he had asked that two economists should be assigned to him to assist him in his work, so that he could compare their analyses and conclusions. He explained to Mr. Alfonso Martínez who had had the idea originally of making the list which he had been requested to prepare, that he had not asked to be relieved of his duties and which he considered as a contribution to a great cause.

25. In conclusion, he said that he had thus taken note of the comments made by all the experts and of all the contributions of the non-governmental organizations, in particular the Pan Africanist Congress of Azania, which should play a major role in the near future, and of the National Aboriginal and Island Services Secretariat, as well as the comments by the observers for Egypt, the Syrian Arab Republic and Senegal.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10; E/CN.4/1990/3, 24-27, 45 and Add.1, 52; A/44/620) (continued)

26. The CHAIRMAN reminded speakers, who took the floor under that agenda item, that they should respect the independence of the members of the Sub-Commission, their honour, and that of the States concerned.

27. Mrs. JAMES (Amnesty International) recalled that ever since it had been founded in 1961, her organization had asked that all prisoners held for the non-violent exercise of their fundamental rights should be immediately and unconditionally released. Many of those people, who were called prisoners of conscience, were detained for exercising their right to freedom of opinion and expression and, consequently, Amnesty International welcomed the Sub-Commission's study of that topic. Currently, Amnesty International was calling for the release of more than 1,500 prisoners of conscience in over 70 countries, although the real total was, of course, much higher.

28. In China, despite releases in the past few months, hundreds of prisoners of conscience were believed to be still detained. Torture and trials which manifestly failed to meet international standards were commonplace. Some prisoners had spent months in detention without charge or trial and others had been sentenced to long terms of imprisonment.

29. In Cuba, 80 critics of the Government, some of whom Amnesty International regarded as prisoners of conscience, had been detained since the beginning of 1989 and nearly 50 of them were still in prison.

30. With regard to Iraq, the fate of Iraqi exiles and others detained in Kuwait since 2 August was a source of concern, in view of the pattern of serious human rights abuses in Iraq. Indeed, the thousands of detainees in that country included many prisoners of conscience arrested because of their non-violent political activities or detained for simply not showing sufficient allegiance to the authorities. Torture of political prisoners was widespread and the families of prisoners of conscience lived in perpetual fear for their lives. Amnesty International had refrained from publicly identifying any of the thousands of individuals about whom it had information.

31. In Malawi, hundreds, possibly thousands of prisoners of conscience, had been detained in the 25 years since independence. Most had been held without trial.

32. In Sudan, since the release of some 90 prisoners earlier that year, the authorities had claimed that all those detained since the coup of 30 June 1989 had been freed. However, Amnesty International had details of more than 250 prisoners of conscience still detained without charge or trial, some of whom had been arrested in recent months. Since late 1989, Amnesty International had received reports of political detainees being tortured soon after their arrest.

33. In the Syrian Arab Republic, Amnesty International was currently working for the release of more than 300 prisoners of conscience, although it was aware that there were many more such prisoners. None had been charged or tried. Some had been held for 20 years, in other words, for terms equivalent to a life sentence in Syrian law, but had no apparent prospect of release. The torture of political prisoners was said to be routine.

34. In Turkey, prisoners of conscience continued to be systematically tortured under interrogation and sentenced after unfair trials. While draft amendments to the 1982 Constitution, the Penal Code and the Code of Criminal Procedure announced the year before would, if enacted, be a positive step, they would still not preclude the arrest and imprisonment of non-violent activists.

35. In Viet Nam, despite legal reforms and changes in government policy, Amnesty International remained concerned about the continued detention of prisoners of conscience on broadly defined terms of having endangered national security. Since the introduction of a Penal Code in 1986, many prisoners of conscience had stood trial, although those proceedings might not have complied fully with international standards. Others, however, remained in detention without recourse to any judicial proceeding.

36. Similar cases of serious human rights violations were known to Amnesty International in many other countries including Albania, Cameroon, Indonesia, the Islamic Republic of Iran, Israel and the occupied territories, Kenya, the Republic of Korea, Morocco, Myanmar, Tunisia and Yugoslavia. It should not be forgotten, of course, that there were other situations where the non-violent exercise of the right to freedom of opinion and expression resulted not in imprisonment, but in "disappearance" or death.

37. The people whom Amnesty International considered as prisoners of conscience came from many countries and from all walks of life. Their own opinions and beliefs were diverse. The charges against many of them were worded in a way that might suggest that they had been detained in situations for which the International Covenant on Civil and Political Rights allowed restriction or derogation. In fact, however, what those prisoners had done and what they had in common was that they had, without violence, expressed ideas which were different from those held by their Government. The vast majority of those prisoners had also been tortured or convicted after an unfair trial or detained without any trial at all. With that in mind, Amnesty International urged the Sub-Commission to pay particular attention, in its study, to the question of detention in violation of the right to freedom of opinion and expression. It should aim to identify the scope of that abuse and formulate concrete measures to prevent its occurrence.

38. Mrs. ROUSSO-LENOIR (International Federation of Human Rights) said that the Federation was particularly concerned at the situation in Kosovo, Yugoslavia, where it had observed violations which it had often described in a variety of reports. In that region, the inhabitants of Albanian origin were being discriminated against in respect of the enjoyment of their economic, social and cultural rights in many ways, such as police provocation, dismissal, social marginalization, withdrawal of passports, arbitrary and illegal arrest, detention without trial, expeditious proceedings and ill-treatment.

39. Whenever the Federation had sent a fact-finding mission to the region, it had always noticed a large-scale police presence, and members of various missions had been directly and personally harassed and otherwise intimidated by the provincial or federal police. The Federation and other human rights organizations were also the target of defamation campaigns.

40. The Federation had received reports last February that élites of Albanian descent had been poisoned collectively and it had itself taken samples which had been sent to independent European laboratories. Pending the final results of those tests, the Federation was not yet in a position either to confirm or rule out that possibility. It, nevertheless, regarded the matter as being serious enough for it to continue recommending that an international mission of experts should be sent to shed light on an event which showed the tension prevailing in Kosovo especially since no proper inquiry on that subject had been conducted by the Government. Neither was the death of demonstrators investigated objectively. In such cases, possible witnesses were subjected to pressure by the civil authorities who threatened them mainly with dismissal. The corpses of the victims were buried immediately without an autopsy and the only action taken was to place the confused and sometimes contradictory statements of the police on record. In addition, the many political trials offered no guarantee of being fair.

41. On 2 July last, reacting to further constitutional amendments imposed by Serbia, the Kosovo Parliament, supported by the entire population, had proclaimed the equality of the province vis-à-vis the other Republics of the Yugoslav Federation. On 5 July, however, the Serbian Parliament had decided to dissolve the Kosovo Parliament. Since then, the province had again been under intensive police control, and there had been a wave of arrests and dismissals. Broadcasts in the Albanian language had been discontinued and considerable pressure was being brought to bear on Rilindja, the main Albanian language daily newspaper.

42. The democratic organizations that rallied the opposition of Albanian descent had never advocated or used violence. They had continued to call for a dialogue, but to no avail. A study of the political, police or institutional measures as a whole led one to the conclusion that the Republic of Serbia had forcibly terminated the autonomous régime which the province of Kosovo had legally enjoyed and that Serbia was infringing flagrantly and systematically all the civil, political, economic, social and cultural rights of the minority of Albanian descent. It was obvious that, in supporting such a policy, the Federal Government of Yugoslavia was violating the international obligations which it had accepted by acceding to the Charter of the United Nations, by ratifying the International Covenants on Human Rights and by signing the Helsinki Agreements.

43. Mr. VO VAN AI (International Federation of Human Rights) said that the Viet Nam Committee for the defence of human rights, which was affiliated to the Federation, was extremely concerned about the flagrant and systematic violations of the right to freedom of opinion, religion and expression and the right to the freedom and security of the individual, currently perpetrated in Viet Nam.

44. During the last six months, for example, over 25,000 persons had been arrested, because of their political or religious beliefs, on the grounds of breach of national security; more than 2,000 had been sentenced to forced labour and 6 to the death penalty. That, unfortunately, was nothing new, because such arrests and arbitrary sentences had already occurred in the past. He, therefore, urged the Sub-Commission to react to that alarming situation which had gone on for too long.

45. Mr. AL-JADIR (Arab Organization for Human Rights) said that at its last special session, the Council of the Arab Organization of Human Rights had condemned the human rights violations committed in most Arab States, and notably the summary executions in Sudan. It had regretted that no resolute action had been taken in Iraq, the Libyan Arab Jamahiriya, Mauritania or in the countries of the Gulf to establish democracy, had requested the release of all detained political activists as quickly as possible and had appealed for respect for fundamental freedoms and international human rights instruments. It had also welcomed the efforts being made by Algeria to establish genuine democracy and political pluralism and hoped that Jordan and the unified Yemen would soon follow suit.

46. Human rights violations still continued, however, in the occupied territories, where the entire Palestinian population was threatened with expropriation and was being subjected to terrorism. The question of the immigration of Soviet Jews to those territories posed an additional problem caused mainly by the pressures exercised on them by the United States and

Israel. In fact, once there, it was expensive and difficult for them to leave for the United States. Admittedly, everyone had the right to leave his country but the right of return also existed. The international community which attached such importance to the right of Soviet Jews to emigrate continued to deny the Palestinians the right to return to their country.

47. Moreover, in some European countries, especially France, Italy and the United Kingdom, there was a resurgence not only of racism on a day-to-day basis against immigrants, fanned by extreme right-wing movements, but also a deterioration in the situation of the vulnerable groups in respect of work, equal opportunity, the right to education and even the possibility of remaining in their host country. The right to vote which immigrants had been granted in the Netherlands, for example, could perhaps be one way of overcoming those difficulties.

48. Concerning the conflict between Iraq and Kuwait, the Arab Organization of Human Rights advocated, on the one hand, the introducion of reforms in Kuwait, without any external interference, because the fundamental freedoms of the citizens there were being violated and, on the other, the unconditional withdrawal of the Iraqi forces. That was the only way that the problems, which divided the Iraqi and Kuwaiti peoples, could be solved.

49. Mr. YOUSSOUFI (Arab Lawyers Union) said that, first of all, he wished to draw attention to the infringements of the rights of Palestinian children in the occupied territories, hundreds of whom had been killed and thousands injured since the intifada began. Thousands had been wounded and tortured and left handicapped and nearly 8,000 girls and boys were being detained in shocking conditions. In addition, Palestinian children were being deprived of the right to education because the Israeli authorities had closed their schools. He hoped that the Sub-Commission would make a point of referring such a serious matter to the world summit on children that would shortly be held at the United Nations Headquarters. More generally, the violation of international law and of Security Council resolutions by the Israeli occupiers which went unpunished and the denial of economic, social, cultural, civil and political rights by the Palestinian occupants of the peoples in the occupied territories were the root causes of the present crisis.

50. With regard to the human rights situation in the Arab countries as a whole, he felt that it continued to give concern, with the exception of a few improvements that had been made in Algeria, Jordan and Yemen, for example. Cases of torture, arbitrary arrest and violations of the right to life and the right to a fair trial had been reported in many countries, including Tunisia, the Libyan Arab Jamahiriya, Morocco, the Syrian Arab Republic and Egypt. But it was in Somalia, Mauritania, Lebanon and Iraq that most of those violations, particularly violations of the right to life still occurred. There had also been violations of the right to a fair trial in Saudi Arabia, in the case of the Kuwaiti Shiites who had been sentenced to death or to long prison sentences without any trial or defence after decisions taken in camera and announced, not by the pronouncement of a judgement, but by a communiqué issued by the Minister of the Interior. Furthermore, Kuwait, from which the Arab Lawyers Union had solemnly demanded the withdrawal of Iraqi forces, had distinguished itself over the last two years by punishing anyone who called for the restoration of constitutional legality. In Sudan, violations had recently increased, notably after an alleged coup attempt on 24 April last, which had been followed by widespread repression of the opposition.

51. Mr. BALIAN (Human Rights Advocates), referring to the explosive situation in the USSR due to the coexistence of over 100 nationalities, whose boundaries had been drawn arbitrarily, who had been subject to population transfers and whose grievances had been neglected for the past 70 years, said that the conflict was most critical in the Republic of Azerbaijan. The people of Nagorno-Karabakh, the majority of whom were Armenians had, in fact, decided, after years of futile petitions and appeals, to request the exercise of their right to self-determination and the administrative transfer of their province to the Republic of Armenia. That popular movement had been a reaction to the consistent pattern of violations of human rights and fundamental freedoms committed by their Azerbaijani rulers. Azerbaijan had responded with anti-Armenian violence, deportations and pogroms and the state of emergency imposed in 1990 in that province was, in fact, directed against the Armenian majority of the population.

52. The conclusion to be drawn from that alarming situation was that if the grievances underlying the Nagorno-Karabakh conflict and similar nationality conflicts in the USSR were not given due consideration and a process of law formulated for their peaceful resolution, the democratic process in the USSR would be seriously jeopardized. That was evident, considering the Azerbaijani Popular Front's advocacy of a totalitarian USSR. To date, Soviet constitutional law and legislation had not formulated such a process, but international law could provide guidance and contribute to finding a lasting solution to the dispute.

53. His organization therefore urged the Soviet Union, in co-operation with the Sub-Commission and other competent bodies such as the International Court of Justice, to initiate and formulate a viable process of law based on international law whereby the future of that province could be determined and respect for human rights and friendly relations could be established in the region. The ICJ decision on Namibia and its subsequent role in helping to resolve that conflict based on the international law principle of self-determination could serve as an example in the present case. The Nagorno-Karabakh experience could, in turn, serve as a model for the resolution of similar nationality conflicts in the USSR before bloodshed and grave violations of human rights and fundamental freedoms occurred. The Sub-Commission should, therefore, appeal urgently to the Soviet authorities to formulate and apply such a procedure and in the meanwhile restore autonomous stature to Nagorno-Karabakh together with respect for the human rights and fundamental freedoms of its inhabitants.

54. Mr. VITTORI (Pax Christi International) said that the involvement of the Iranian official services in the murder of Kazem Rajavi near Geneva, in April 1990, called into question the credibility of those interviewed by the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, Mr. Galindo Pohl, whose report (E/CN.4/1990/24) appeared to be over-optimistic. The Special Representative of the Commission should bear that reprehensible act in mind when he was assessing the veracity of the information made available to him by the Iranian authorities for inclusion in his next report.

55. The conflict between Iraq and Kuwait was currently holding the attention of the whole world. It was obvious that Kuwait must be freed as soon as possible, but that should not obscure the fact that Lebanon, the Palestinian territories and part of Cyprus were also occupied by foreign

armies. Pax Christi, which had always asserted that recourse to the use of arms was not the proper way to resolve conflicts, was surprised that the major Powers, as an alternative method of enforcing Security Council decisions, did not bring pressure to bear on the various occupiers to put an end to the human rights violations that ensued because of their presence.

56. With respect to the Middle East, Pax Christi drew the attention of the Sub-Commission to the situation of the Kurds, who were split up among four countries in the region, who were persecuted and denied their legitimate rights, such as the right to use their language, to live on their land and the freedom to enjoy their culture. At the present time they were treated with most cruelty in Iraq and Pax Christi failed to understand why the Commission on Human Rights had decided not to take any decision on Iraq at its previous session. The time had perhaps come for the Sub-Commission to think about appointing a special rapporteur for the Kurdish regions of Turkey, Syria, the Islamic Republic of Iran and Iraq.

57. In Sudan, the coup d'état of 30 June 1989 had done nothing to improve respect for human rights or the prospects for a negotiated settlement with the Sudan People's Liberation Army. The Popular Defence Forces of the National Islamic Front had complete freedom to carry out massacres, make arbitrary arrests and practise torture. That situation put obstacles in the way of humanitarian assistance which the Sudanese people needed so urgently. In that connection, mention should be made of the disastrous consequences for the civilian population of the 30 year-long war between Ethiopia and the Eritreans.

58. In Timor, which Indonesia was occupying in breach of international law, no progress had been achieved towards decolonization through a democratic process, namely, by a referendum under United Nations supervision.

59. In Sri Lanka, the negotiations had ended in failure and the war and its attendant atrocities had resumed. Pax Christi denounced the violent acts not only of the Tamil Elam Tigers but also of the paramilitary groups and the army, which had been called in to put down the rebellion. The Sri Lankan Government should be urged to take measures against the extra-legal executions and the enforced disappearances and to protect prisoners against torture and to guarantee them a fair trial and sentence. Only a resumption of the dialogue between the parties, with United Nations co-operation, would allow the conflict to be resolved.

60. In conclusion, Pax Christi requested the Sub-Commission to concern itself with the precarious situation of the 11 ethnic minorities, living in Myanmar, whose fundamental rights were not recognized. One must hope that the new Government would agree to negotiate with their representatives.

61. Mr. CUSTODIO (Service, Justice and Peace in Latin America) said that respect for and the effective exercise of human rights and fundamental freedoms were still an ideal in those Latin American countries described as "transitional democracies". It was a fact that extra-legal executions, disappearances, murders, arbitrary arrests and kidnappings had become common in Guatemala, El Salvador, Honduras and Colombia. The United States Government had itself been guilty of violations in Panama, as the recently discovered communal graves in which the corpses of executed Panamanian soldiers had been thrown after their surrender had shown. Because of the impunity enjoyed by the authors of those crimes against mankind, the peoples

of Latin America had set up people's courts which had recognized the guilt of the States of Colombia, Honduras, Guatemala and Ecuador and would give their final verdict, in Chile, in November. Action had to be taken to stop the suffering in those countries and it was important for the Sub-Commission to give them special attention.

62. In conclusion, he read out the joint declaration on Honduras signed by 18 non-governmental organizations, in which they urged the Government of Honduras to invite the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions to visit Honduras and to take steps to protect human rights defenders in those countries. They also recommended that the non-governmental organizations working to defend and promote human rights should have access to the United Nations technical assistance programme.

63. Mr. ROSSI (International Association for the Defence of Religious Liberty) said that the major religions had often contributed towards violence, discrimination, exclusion and death. For centuries, the right to freedom of thought, belief and religion had been denied, heretics and apostates had been mistreated, tortured, exiled, imprisoned or assassinated and deprived of their most legitimate rights. Religious fanaticism, which was resurgent at the present time, could lead to such abominable acts and the intolerance it engendered included even the death sentence. Everyone would recall, in fact, the death sentence decreed by the Iman Khomeiny and reiterated by his successor against the writer, Salman Rushdie. In Algeria, the Iman Belhadj, a co-founder of the Islamic Salvation Front, favoured capital punishment for Muslims who adopted another faith and in Mauritania, an article of the Penal Code which had been voted a few years earlier prescribed the death sentence for all Muslims guilty of the crime of apostasy. The rise in religious fundamentalism and in particular Islamic fundamentalism was extremely dangerous because, as Mr. d'Almeida Ribeiro, the Special Rapporteur of the Commission on Human Rights on the question of religious intolerance had said in his report (E/CN.4/1990/46), religious fanaticism had become a destabilizing factor in the international system and a source of tension and conflict between States.

64. The international community was duty bound to react and take appropriate measures to face up to that situation. Fundamentalists, whoever they might be, should be helped to understand that the true message of all religions, whether Buddhism, Hinduism, Christianity or Islam, was one of peace, mercy, forgiveness and love, and of respect for all human rights and fundamental freedoms, in general and the dignity of each human being, in particular. In order to help fundamentalists to reconsider their positions, the competent United Nations bodies should condemn human rights violations caused by religious fanaticism and in that regard the Sub-Commission had a major role to play.

65. Despite a number of general improvements, the Islamic fundamentalism of the authorities who succeeded the Iman Khomeiny continued to be the source of massive human rights violations. The right to religious freedom was still restricted for certain minorities, notably the Baha'is who had been persecuted in recent years. The situation of the Baha'is, therefore, could not be said to be "moving towards quite broad de facto tolerance" as Mr. Galindo Pohl, the Special Representative of the Commission on Human Rights on the human rights situation in the Islamic Republic of Iran, stated in his report to the most recent session of the Commission.

66. Serious forms of religious fanaticism had also emerged in Saudia Arabia. There, other religions than Islam were forbidden. However, there were 3 million migrant workers in Saudi Arabia, who made up two thirds of the working population and who professed a religion other than Islam, which they could therefore not practise. That difficult situation had lasted for many years and neither the Sub-Commission nor the Commission on Human Rights had ever adopted a resolution calling on the authorities of Saudi Arabia, which was a member of the United Nations, to respect human rights, notably in respect of religious freedom. The International Association for the Defence of Religious Liberty, therefore, hoped that the Sub-Commission would make every effort to study the case of Saudi Arabia and to adopt the requisite resolution in that regard.

67. Mr. WALDEN (Observer for Israel), making a statement equivalent to a right of reply for the second time, stressed that the word "obscene" that he had used to describe Mr. Alfonso Martínez's allegations was perfectly appropriate, because the latter had accused Israel of doing nothing to prevent the possible murder of 2 million people. Furthermore, Mr. Alfonso Martínez had refused to withdraw his allegations on the ground that they were a fact. It was indeed a fact that the media had been circulating that rumour, but that did not mean that the rumour was true and he was surprised that an expert should believe and repeat everything he read in the press.

68. He wished to state that no gas-masks had been distributed to anyone in Israel. The Government had only announced that it was prepared to do so if necessary and the Israeli Minister of Defence had stated that he accepted responsibility for the safety of everyone under Israeli jurisdiction, including the inhabitants of the territories. Mr. Alfonso Martínez and anyone else who was motivated by ill-will against Israel could choose to disbelieve him, but they would have no valid reason for taking such a position.

69. Mr. ALFONSO MARTINEZ noted that the observer for Israel insisted on repeating that the allegations he had made were obscene although he had already explained what he considered to be obscene. However, he took due note of the fact that an Israeli minister had said that gas-masks would be distributed, if necessary, to all those who were de jure or de facto under Israeli jurisdiction. He stated that he certainly did not believe everything that he read or heard because in that way he could maintain his independence as an expert.

70. Mrs. KSENTINI observed that the Israeli minister had spoken of a "mass" distribution of gas-masks and asked whether the observer for Israel could provide further information on the exact meaning of that word because it did not necessarily mean "to everyone".

71. Mr. WALDEN said that the use of the word "mass", which was not a technical term, meant that all those who were subject to Israeli jurisdiction, including the inhabitants of the territories, would enjoy protection by Israel in the event of an attack.

The meeting rose at 12.55 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 August 1990, at 3 p.m.

Chairman: Mr. TURK

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The meeting was called to order at 3.30 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)
(E/CN.4/Sub.2/1990/15-16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10; E/CN.4/1990/3, 24-27, 45 and Add.1 and 52; A/44/620)

1. Mr. MERILLS endorsed the point repeatedly made in the discussion of item 5 (b) that the question of apartheid was one of the most important on the Sub-Commission's agenda. Apartheid was indeed an abomination in theory and in practice and must figure prominently in the work of any body concerned with the protection of human rights and fundamental freedoms. Unfortunately, however, apartheid was not the only human rights issue and there were many other situations demanding the Sub-Commission's attention. Item 6 provided members with an opportunity to consider those other situations and for that reason in his view was another particularly important part of the agenda. In dealing with that item, the Sub-Commission was dealing with a key element in its work and one which it had a great responsibility to approach with the utmost seriousness.

2. If it was to do its work under item 6, the Sub-Commission needed information about human rights violations wherever they occurred. All members had their own sources of information, just as they had their own views. But all of them needed information from outside sources in order to draw their attention to situations of which they might be unaware, or on which their own information might be incomplete or inaccurate. The role of the non-governmental organizations was vital in that context, and wished to pay tribute to the assistance which the non-governmental organizations gave to the Sub-Commission in its work generally and on item 6 in particular.

3. A number of important and valuable contributions had been made on the situation in various parts of the world, at the previous meeting. It was perhaps invidious to single out particular contributions; however, he wished especially to mention the very clear presentation by Amnesty International on situations of a political oppression and, on a different but related topic, the statement made by the International Association for the Defence of Religious Liberty on the question of religious intolerance. The issues of political repression and of religious intolerance were perhaps the two most serious sources of human rights violations today. He did not, however, mean to underestimate the contribution of the other speakers. All non-governmental organizations had a great deal to contribute to the work of the Sub-Commission and he and his colleagues awaited their further statements with great interest.

4. Mr. AL-SARAWI (Observer for Kuwait) said that his delegation wished to bring to the attention of the Sub-Commission the sudden invasion of its country by Iraq. That violation of the sovereignty of an independent State was all the more unexpected and perfidious because it had been perpetrated by a country with which Kuwait had ties of blood, religion and history and which it had supported at a time of great crisis.

5. That unprecedented act of agression against Kuwait, a member of the United Nations, the Arab League, the Gulf Co-operation Council, the Organization of the Islamic Conference and many regional and international organizations, had been condemned by the international community. The mass media world-wide had reported on the massive violations of human rights committed by Iraq, including denial of freedom of movement and expression, and the rape, violence and looting that had no counterpart in modern history and recalled the tribal wars of centuries past.

6. He called for the unconditional withdrawal of Iraqi forces from Kuwait in accordance with the Charter of the United Nations. He hoped that his statement would be recorded among the official documents of the Sub-Commission to bear witness to the fact that the civilized world condemned Iraq's barbaric action.

7. Mr. COMTE (Centre Europe - Tiers Monde) said that his organization wished to bring to the Sub-Commission's attention the human rights violations resulting from the continuing war between the Polisario Front and Morocco which still continued despite recent meetings in Geneva on the initiative of the Secretary-General. Two situations were particularly tragic.

8. In May 1989 the Polisario Front had announced the release of 200 Moroccan prisoners of war, who, however, had been unable to return to their families, most of whom had not been officially informed of their release. On 13 February, Mr. Sommaruga, the President of the ICRC, had informed the press that since 1978, the ICRC had not been allowed to visit prisoners in Morocco although it had visited more than 1,000 prisoners in Polisario hands. Mr. Sommaruga had gone on to say that some 200 of those prisoners had been designated for release, but that after six months of negotiations, Morocco was refusing to take back those 200 prisoners.

9. He also wished to recall the case of the many Saharans who had disappeared since 1975: since the beginning of the conflict, several hundred civilians had been kidnapped, imprisoned and often tortured. Reports reaching his organization left no doubt as to the harsh conditions meted out to the prisoners and their total lack of legal protection.

10. His organization requested the Sub-Commission to invite the Working Group on Enforced and Involuntary Disappearances to give priority attention to those matters, and so find out where the Saharans were being held and what were their conditions of detention. He requested the Sub-Commission to assist the international organizations directly concerned to find a solution that would allow the immediate repatriation of the 200 Moroccan prisoners of war.

11. Another member of Centre Europe - Tiers Monde, Mr. Bereket Habte Selassie, would now address the Sub-Commission on the question of Eritrea.

12. Mr. YIMER, speaking on a point of order, pointed out that only accredited representatives of non-governmental organizations were allowed to address the Sub-Commission. He did not believe that Mr. Bereket Habte Selassie was an accredited representative.

13. The CHAIRMAN said that he had consulted the list of accredited persons and it appeared that Mr. Yimer was correct. The Secretariat would check with the representative of Centre Europe - Tiers Monde as to the names of the accredited representatives of that organization.

14. Mr. GUO-Yufang (Liberation) said that the most fundamental human rights included in the Universal Declaration of Human Rights were the rights to democracy, freedom of thoughts, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly and association. Those rights were being violated by the Governments of some countries, among which was China.

15. The present Constitution of the People's Republic of China upheld the supreme leadership of the Chinese Communist Party, whose leaders used that status to control all aspects of Chinese society. Any attempt to question violation of human rights by top Party leaders was treated as a counter-revolutionary crime. By 1989 even the most acquiescent people in China were no longer able to tolerate the extensive violations of human rights by Party and government officials of all ranks. Demonstrations had begun, and continued repeatedly all over China as well as in Xinjiang and Tibet. The peaceful demonstrations in Beijing had been witnessed by the whole world. Citizens had asked only for the termination of the widespread corruption of government officials and the real implementation of human rights, especially freedom of expression, as well as the most important aspects of democracy. The Government had refused to listen. It had answered only with martial law and military intervention. Since then, the Chinese Government had done nothing to eliminate social inequality and injustice and gross violations of human rights. On the contrary, it had persecuted, detained, imprisoned and tortured and even executed many genuine political dissidents, particularly those who were not well known. Many, whose names might never be known, had been killed or permanently disabled by brutal torture. The families of those executed had even been forced to pay for the cost of the bullet.

16. The whole Chinese people was suffering. The Government was forcing its own ideas upon the people through the wide-ranging campaign of self-criticism and forceful political education. The Government forbade any public expression by means of martial law, new legislation on demonstrations and Party policies strictly controlling the media and any other flows of information. In a word, as bad as the human rights situation had been a year ago, today it was far worse.

17. Some genuine political dissidents had managed to flee to Taiwan and Japan requesting protection; 15 from Taiwan and 1 from Japan had been extradited to China.

18. His organizations respectfully requested the Sub-Commission to express its serious concern at the continuing widespread violation of human rights by the Chinese Government in mainland China, Tibet, Xinjiang and elsewhere; to demand that the Government of the People's Republic of China should end all violence, release all political prisoners whether their names were known to the public or not, and implement internationally-recognized human rights standards.

19. It also asked the Sub-Commission to express its concern at the human rights situation of the Chinese dissidents who had fled to other regions of the world, in particular those now in Taiwan and Japan.

20. Finally, it urged the Sub-Commission to request the Commission to appoint a special rapporteur to investigate all human rights abuses in China and to supervise the development of the human rights situation in that country.

21. This statement was supported by the following non-governmental organizations: Disabled Peoples' International; Pax Christi International; Minority Rights Group; MRAP Movement Against Racism; Human Rights Advocates; International Fellowship of Reconciliation; International Association of Educators for World Peace; International Federation of Women Lawyers; Habitat International Coalition; World Union for Progressive Judaism and International Educational Development.

22. Mr. SPAHIU (Liberation) said that his organization wished to bring to the attention of the Sub-Commission the grave situation in the Yugoslav region of Kosovo resulting from the continued violations of human rights.

23. The situation in Kosovo had deteriorated steadily and was now reaching crisis point. It might easily erupt into an open and bloody conflict between the Serbian security forces and the Albanian people if a way out were not found through dialogue and democratic means. Albanians had no rights or protection, for the Serbian state had outlawed them, denying their individual, collective and national rights. On 2 July 1990 the delegates to the Parliament of Kosovo had issued a statement conferring upon Kosovo equal status in the Yugoslav Federation, thus expressing the political will of the Albanian people, who represented 90 per cent of the population of Kosovo. Three days later, Serbia had forcibly and unconstitutionally dispersed the Parliament of Kosovo, its Executive Council and executive bodies. Police had occupied the television and radio station broadcasting in the Albanian language. On 7 August, Rilindja, the only daily newspaper published in Albanian, had been closed down, so that now over 2 million Albanians had no means of information in their mother tongue. Over 2,000 journalists and employees had no means of livelihood.

24. For a long time now, wide-ranging prohibitions had been imposed on the Albanian people, who had been subjected to mistreatment, beatings, arrest, detention and segregation. They were in a situation of complete insecurity and feared for their lives and work. They were being dismissed from their jobs by means of the notorious "differentiation" process, an ideological purge which had resulted in thousands of workers losing their jobs because of their political views. According to official figures, over 1,800 Albanian policemen had been dismissed for refusing to carry out orders from Serbia after it had suspended the provincial authorities.

25. The Serbian authorities were exerting continuous pressure and provocation in order to make the Albanian people react violently and renounce peaceful resistance so that Serbia could then use all its repressive machinery against the population on the pretext of defending the constitutional order. Since 1981, according to official sources, some 100 Albanians had been killed, over 500 wounded, over 600,000 mistreated in one way or another by the police and security organs and over 3,000 had been given long prison sentences.

26. In March 1990, over 4,000 persons had sought medical treatment, complaining of symptoms of poisoning. The authorities had called that complaint a fake, preventing people from reaching hospital, persecuting those who had transported the sick and mistreating and threatening doctors and medical staff who tried to offer their professional help.

27. The only thing that did function today in Kosovo were the emergency measures and the Serbian police force. All democratic and pluralistic

processes were blocked. The Serbian authorities refused to recognize political pluralism in Kosovo, stubbornly continuing to deny the Albanians their right to equal status in the Yugoslav Federation.

28. The only hope of the Albanian people in Kosovo lay in the pressure that could be exerted by democratic European communities and international bodies like the Sub-Commission. He therefore appealed to the Sub-Commission and to the Under-Secretary-General for Human Rights that a rapporteur be sent as a matter of urgency to the area to study the situation.

29. Mrs. ATTAH, speaking on a point of order, observed that only accredited representatives of non-governmental organizations were allowed to speak. The trend among non-governmental organizations to invite other persons to address the Sub-Commission was contrary to the rules of procedure and unacceptable.

30. The CHAIRMAN urged non-governmental organizations to ensure that persons addressing the Sub-Commission were indeed representatives of those organizations.

31. He would bring the matter to the attention of the Bureau and inform the Sub-Commission of any suggestions that the Bureau might make in that regard.

32. Mr. TEITELBAUM (American Association of Jurists) said that against a background of flagrant social injustices made worse by unbridled economic liberalism, the human rights situation in several countries of Latin America left much to be desired. In Peru, where murders and disappearances were continuing, military control had recently been extended. The Party of the Democratic revolution of Mexico had sent to the American Association of Jurists (AAJ) a list of almost 60 of its militants who had been murdered since Mr. Salinas de Gortari had assumed the Presidency of the country. In the latest presidential elections the candidate of the Party of the Democratic Revolution had lost by a difference of 2 per cent, according to the official figures, in conditions which raised serious doubts as to whether the official result really reflected the will of the people as expressed in the ballot box. The Institutional Revolutionary Party, which had been in power in Mexico for many decades, no doubt had to learn how to accept the real possibility of taking turns in office.

33. On 20 December 1989, United States troops had invaded Panama. They had been due to be there for no more than 24 hours. That period had now been multiplied by almost 250 times, but United States troops were still occupying the Republic of Panama and did not give the impression they were preparing to leave in the immediate future, since they were intervening in all aspects of the Republic's administration. It had not even been possible to establish the total number and identity of those killed by the invasion. Common graves had been discovered, but the authorities had refused to identify the corpses, alleging lack of facilities. Representatives of the victims had appealed to the Organization of American States.

34. The situation in Guatemala was deteriorating. Talks were being held between the armed opposition and the political parties, but it would be desirable for the Government, too, to participate in them with the mediation of the United Nations, as in the case of El Salvador.

35. The situation in Colombia was rather more complicated than it appeared. There was not only a confrontation between the Government and the armed forces on one side and the drug traffickers on the other. Mrs. Sanchez, a Colombian member of AAJ who had recently had to leave her country, would explain what was happening there.

36. Mrs. SANCHEZ (American Association of Jurists) said that, as counsel for the defence of political prisoners, she had been in possession of denunciations to the Government Attorney sent by three officers and one non-commissioned officer in the army, in which General Faruk Yanine Diaz, among others, was accused of having ordered in writing the murder of 65 peasants in the Carare-Opon area. Of these, eight were reported to be guerrillas of the National Liberation Army and the rest were peasants. In the denunciations the Commander of the Seventh Brigade had also been accused of having organized the murder of Senator Pedro Nel Jimenez in 1986, as well as the attack on the present Minister of Health, Andoni Navarro. Captain Coy had explained in detail the methods used to gain the confidence of victims and then to make them disappear.

37. The Government Prosecutor had also been informed in writing of the monies received by senior officers from drug traffickers. In a notebook and videos found in the house of a drug trafficker General Maza Marques was directly accused of illicit activities.

38. In another denunciation Corporal Silva, commander of the Puerto Bello post in El Urabrelates had explained how he and other soldiers had been forced to give false testimony to the Government Attorney's Office concerning the murder of 42 peasants whose corpses had been found, after a search warrant had been issued two months after the event, on the estate of a drug trafficker.

39. All those denunciations, duly signed, had been delivered to the Government Attorney, who had replied, in her presence and in that of a Senator, that although the information supplied might very well be true, it was very difficult to investigate the armed forces, who might kill him. She had delivered the same denunciations to the Minister of the Interior and to the Director of Public Prosecutions but had obtained no reply and none of the officers who had originated the denunciations had been called upon to confirm his testimony. When it had become known that she was in possession of the information, she had had to seek asylum abroad, with all her family.

40. Such events were by no means exceptional. The murders, summary executions, illegal or arbitrary detentions, the practice of torture, enforced disappearances and other gross violations of human rights and fundamental freedoms were only too well known. However, it was important to note that, unlike what happened in many other cases, the cases which she had described were fully documented, with witnesses and sufficient evidence, but so far no action had been taken to investigate them and to punish those responsible. The international community was called upon to take cognizance of such situations and to adopt the most appropriate measures possible to put an end to the annhiliation of the Colombian people and to secure effective respect for human rights and the rule of law in her country.

41. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that the world was living through a period in which old historical conflicts were leading to explosions of violence and even to a

return to an abominably savage past, of which the anti-Armenian pogroms at Baku and Soumgait were examples. The conflicts that were arising as a result of the re-emergence of ancient divisions among peoples should not be underestimated.

42. With two other representatives of non-governmental organizations, he had tried to collect information on the real situation in Kosovo. Although their inquiry had been brief because the police had cut it short, it had convinced him that serious events were taking place there. Over the past 10 years dozens of people had been the victims of police and military repression. X-ray evidence had shown that in several cases special ammunition had been used. There were very many cases of torture, and detention without trial was common.

43. The most disturbing aspect of the repression had been the poisoning of several thousand schoolchildren and workers, almost all of them ethnic Albanians, at the end of March 1990. The authorities of the Republic of Serbia, of which the autonomous territory of Kosovo formed part, saw the case as a gigantic hoax. Of course, no interpretation could be excluded a priori, but the hypothesis that it was a hoax involving a large number of actors, including children under four years of age, and made to seem authentic by dozens of false witnesses, including doctors, surgeons and university lecturers who had misled a number of foreign investigators, was really difficult to accept.

44. For example, at Pec the NGO visitors had received impressive evidence from some 10 doctors and departmental chiefs, but the head of the neuropsychiatric department, who was a Serb, had refused to talk to them. At two hospitals at Pec and Prizren, the NGO mission had been informed that the medical files relating to the poisoning had been confiscated by the police and never returned.

45. He was not, of course, in a position to demonstrate that there had in fact been a criminal poisoning by means of chemical agents, but neither had the Belgrade Government supplied proof that there had not been a poisoning. International opinion should therefore demand that full light be shed on the case and that a scientific investigation be undertaken by neutral experts.

46. The United Nations also had a duty to call upon the parties to try to understand one another. For the moment, the main effort had to be made by the Serbian side. It seemed absurd that an absolute majority of the deputies to an elected assembly should be prevented from taking their seats and should have to adopt a resolution standing on the steps outside the building: the resolution was not in itself incendiary, since it merely proclaimed that the territory had been converted into a federal republic. It seemed shocking to assimilate the political activity of the Albanians, who were claiming the right to manage their own affairs directly, to terrorist and fascist activity. In all likelihood Serbian public opinion had a misconception as to what was meant by a "minority". Admittedly, Albanian-speakers were only a minority of the total population of the Republic of Yugoslavia, as were the Montenegrins. But how could that be an obstacle to their accession to the status of adults having a recognized right to self-determination? It had been painful to note the violent nature, tinged with racism, of the allegations made by the Serbian side. Serbian public opinion and the Belgrade Government must respond to the appeal for wisdom made some months ago in a major French

newspaper by Ismail Kadare and must bury chauvinism. Every people had its own identity and history, but an understanding of other peoples was essential for civilization and peace.

47. Mr. MOSES (International Organization of Indigenous Resource Development and Grand Council of the Cree (of Quebec)) explained that he was speaking on behalf of two indigenous peoples' non-governmental organizations and on behalf of the Assembly of the First Nations of Canada, the national organization that represented the Indians of Canada.

48. In the first place, he thanked the Sub-Commission for taking, at the beginning of its present session, the decision to call upon Canada to report on its actions in Kanesatake and Kahnawake, which would in future prove to have prevented a further tragedy from taking place. The Sub-Commission had acted when the Premier of the Province of Quebec had issued an ultimatum to the indigenous peoples, when Indians had been surrounded by hundreds of heavily armed police, when the threat of force had already been invoked, and when food, water, medicine and advisers were being denied to Indians solely on the basis of race. The action taken by the Sub-Commission had forced Canada and Quebec to realize that any act of violence against the indigenous peoples of Canada would be seen and heard by the whole world. It was that which had averted further violence.

49. The Sub-Commission's preoccupation with Indian rights, its interest in their situation, and its demand for constant information on any changes or new developments was the only protection which the Indians now had against the use of force. By taking their situation into consideration, the Sub-Commission had gained the respect of the indigenous peoples and had demonstrated that it had the practical authority to require States to respect basic human rights and fundamental freedoms.

50. His present statement was not intended to inflame the situation between Canada and the indigenous peoples, who hoped that a peaceful and equitable solution could be brought about. However, Canada as a State had taken a serious turn for the worse. It had decided to abandon all restraint and its international reputation for respect for human rights. The test of a State was not in its laws or in the statements made by its diplomats, but the real respect it demonstrated for human rights. Canada had failed the human rights test with its indigenous peoples. The federal armed forces had now been authorized to act in the crisis; it was only the fourth time since the Second World War that Canadian troops had been called upon to use force against the civilian population. Large mobs of non-indigenous persons had been incited against the indigenous peoples and had attacked them in the streets, shouting racist slogans. According to human rights groups in Canada, that activity was being encouraged by elements of the Ku Klux Klan, who had been distributing hate literature and leading racist demonstrations and violent confrontations with indigenous people in and near Montreal. A member of Canada's Parliament who in previous years had called publicly for the forcible removal of all Indian people to the barren coast of Labrador had now called openly for the federal armed forces to attack indigenous communities with tanks and machine guns. Canadian racism and hostility to Indians and to black people had gained a dangerous degree of acceptability. The chief of police of Quebec had stated that he could no longer exert sufficient control over events. He called the crisis the worst in the history of Quebec. Inflamed by government rhetoric

against indigenous people, citizens in Quebec were arming themselves with baseball bats and chasing Indians down the streets. Blacks, too, were now being attacked with baseball bats.

51. Such was Canada, the country where the indigenous peoples must live. Geographically, it was their homeland. All across Canada the Government had decided to confront indigenous peoples. A Government which had ignored their rights for centuries was now using violence against them when they objected to its conduct. Little by little their land had been taken away and their situation had now become desperate.

52. His own people, the Crees of James Bay in northern Quebec, were the victims of a huge hydroelectric project which had flooded their ancestral lands and poisoned the food they ate. That was environmental racism: governments did things on indigenous lands that they would never attempt to do anywhere else. The concerns of indigenous peoples were always judged to be less important than the interests of the non-indigenous populations in the urban centres. The environment was being destroyed, and the indigenous peoples along with it.

53. The James Bay hydroelectric project had been built without any environmental impact review. The Government of Quebec had decided to build two additional projects on indigenous lands which would destroy the land, the forests, the geese and the ducks and other animals and fishes upon which the indigenous peoples depended for food. That was the same Quebec which had initiated violence against the Mohawks, which had attacked the Mic Mac people, and which denied the indigenous peoples their right to self-determination. The Government of Quebec had lost all sense of human values and would use violence against indigenous peoples for anything: for fishing, or for a golf course.

54. All across Canada the attack against indigenous peoples was continuing. In British Columbia indigenous forests were being destroyed. In Alberta, the lands of the Lubicon Indians had been given to a Japanese paper manufacturing company after a few weeks of negotiations. In the North West Territories, the Deno people had rejected the unfair terms of a land claims settlement dictated to them by the Government of Canada as a last and final offer, a settlement which would have forced them to surrender the indigenous rights which the Sub-Commission was now working to protect.

55. Some way must be found to stop such a terrible attack. The Canadian Human Rights Commission had stated that racism against Canada's aboriginal peoples was the most serious and pressing human rights problem in the country. In its latest report it had described the continuing human rights tragedy of the indigenous people as a national shame.

56. Canada had attempted to suppress that information and to prevent the Sub-Commission from learning about the real situation. It had recently taken the unprecedented decision to withdraw the report it had submitted to the Committee on the Elimination of All Forms of Racial Discrimination, in which the Government had praised its own respect for indigenous rights.

57. Canada refused to acknowledge its own official racism embodied in the Indian Act, the Ministry of Indian Affairs and Northern Development, and the Department of Indian Affairs, legal institutions of racism and apartheid. Bishop Tutu was now in Canada and had confirmed that the conditions to be found in Canada were similar in many instances to those of apartheid in South Africa. There was one important difference: the indigenous peoples of Canada were few in numbers. But they were the majority in over 90 per cent of the territory claimed by Canada, which had now decided to use force to remove them. The indigenous people could not lose any more land and still remain a people. They were desperate. An end would not come when the present crisis near Montreal was settled. Only international opinion prevented a bloodbath. The indigenous peoples of Canada therefore urged the Sub-Commission not to abandon them. Canada had truly changed. If the Sub-Commission had not been meeting when the crisis had occurred, there would have been many violent deaths. A special rapporteur should be recommended for appointment by the Economic and Social Council to report on the rights of indigenous peoples in Canada and Quebec. At the very least, the Sub-Commission should continue to observe and receive communications on indigenous rights in Canada after the end of its present session.

58. Mrs. GRAF (International League for the Rights and the Liberation of Peoples) said that her organization, whose work was to protect the rights of people mainly in the third world, had for some time been alerted to the situation of a people in Europe. An unproclaimed state of emergency was in force in Kosovo, Yugoslavia. Following a mass poisoning of over 6,000 persons, mostly of school age and almost all of them belonging to the ethnic Albanian community, between 23 March and 2 April 1990 a delegation of non-governmental organizations, in which she herself had participated, had visited five localities in Kosovo where it had interviewed a large number of witnesses and victims with a view to collecting serious evidence of violations of human rights. The delegation had been in front of the Parliament building at Pristina on 2 July 1990 when 114 Albanian-speaking members of parliament out of a total of 183 had proclaimed, in front of the bolted door guarded by Serbian policemen, a constitutional declaration of sovereignty. On 5 July 1990, the Albanian-speaking radio and television stations had been occupied by the police, as well as the Albanian-speaking press building. Any dissemination of independent information in the Albanian language had then ceased.

59. There were numerous cases of persons having been arrested, imprisoned without charge, beaten, tortured, wounded, held incommunicado, dismissed from their jobs, or even killed. In one case, a lawyer had been arrested and beaten by the police for having testified to the NGO mission. Moreover, some 1,800 Albanian-speaking policemen had been dismissed and replaced by Serbs, with the result that no Albanian-speaking policemen were left in Kosovo. The poisoning of Albanian-speaking schoolchildren had taken place a few days after children of different ethnic origins had been segregated in separate classes. The medical records of poisoned persons had been seized by the police, and the doctors who had treated them had been threatened. At Urosivac the police had tried to prevent doctors from treating victims of the poisoning and had confiscated a large quantity of medicines provided by humanitarian organizations. A report produced by the NGO mission contained further details and was available. It should, however, be borne in mind that that mission had been short and had been cut short even further by the police, who had held its members up for two days running before finally ordering them to leave the territory. It had thus been deprived of a certain amount of evidence.

60. In view of the foregoing, the International League for the Rights and the Liberation of Peoples requested that a mission of experts be organized under the authority of the Sub-Commission to acquaint itself with the whole file on the spot, including the transmittal of all documents and the hearing of all witnesses.

61. The state of emergency in the Karabakh imposed under article 4 of the International Covenant on Civil and Political Rights was giving rise, in practice, to violations of international law, including massive and discriminatory displacements of the Armenian population. The International League for the Rights and the Liberation of Peoples considered that the repeal of the state of emergency and the re-establishment of the legal Soviet power were prerequisites for any solution to the Karabakh problem. The exercise of its people's right to self-determination was the natural framework for a long-term solution. Armenians and Azeris could settle their joint problems only by respecting the rights of peoples, apart from manoeuvres and pressures.

62. Mr. BARSH (Four Directions Council) said that, in order to play its role effectively and not merely duplicate the work of the Commission, the Sub-Commission should make its contribution in terms of greater access to relevant information; earlier detection of emergency situations; greater expertise in interpreting information; and more independence from national political interests.

63. In recent years the focus of attention had been on the criterion of independence which had been reinforced by clarifying the legal status of the Sub-Commission's members and by use of the secret ballot. The Sub-Commission had been able to act in several cases that the Commission could not address because of the strategic alliances of the countries involved. Such resolutions as those on China and East Timor had however been directed at public opinion rather than the Commission.

64. The Sub-Commission's role in appealing directly in such cases to public opinion was a critical element in maintaining the objectivity and credibility of the United Nations human rights system as a whole. On the other hand, focusing on publicizing a few cases each year could divert attention from human rights problems elsewhere in the world, particularly those which had not yet reached the same scale or levels of violence.

65. Relatively little attention had been given to non-judgemental forms of United Nations involvement, in resolving emergency situations, such as good offices, contacts, mediation, informal reviews or dialogue with Governments and technical assistance. Such measures could be highly effective at the very earliest stages of a problem before the cycle of repression and counter-violence had set in. To function effectively, such non-judgemental mechanisms must be triggered swiftly, without exhaustive preliminary studies. They must remain highly flexible and adapted to the circumstances of each situation. They must involve ongoing, informal supervision by the Sub-Commission. The Sub-Commission's swift and informal action in regard to the situation of the Mohawk Indians in Canada had so far helped prevent violence and represented an example of a future direction which the Sub-Commission might wish to take.

66. It was also worth considering the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the

Organization which had been preparing guidelines for the peaceful resolution of international disputes and for the conduct of good offices, fact-finding and mediation missions. A parallel set of procedures for situations involving human rights might be very useful.

67. Only about one tenth of the situations discussed in the Sub-Commission each year resulted in resolutions. Nine tenths of the information received, including the explanations of Governments, was essentially lost. All that was said in the Sub-Commission was, of course, reflected in the summary records which however were edited heavily with the aim of preserving the skeleton of speakers' arguments. Thus, while the important part of the statements made in the Sub-Commission were the details, the summary records were edited to delete detail and preserve legal arguments and rhetoric.

68. In 1989, his organization had prepared a model report, based on statements made at the Sub-Commission's session in 1988 to show that it could be as straightforward an administrative task as the preparation of the summary records. Such a report would give the Commission and the public a context in which to view the resolutions or decisions adopted each year on a few cases. It would draw attention to signs of trouble in many countries which had not been the subject of any formal decision and it would be more objective than the current report of the Sub-Commission because it would be based on all information received rather than on a vote. The proposed report would simply comprise the text of statements, edited to preserve contentions of fact rather than argumentation, together with observations by the experts and replies by Governments. It could take the form of an annex to the report of the Sub-Commission. Such a report would help to substantiate the resolutions adopted each year but it would also preserve the major part of the evidence of what was going on elsewhere in the world.

69. Since the Sub-Commission was accessible only to accredited non-governmental organizations and met in Geneva, organizations and movements in poorer countries had difficulty in participating directly and effectively. Indeed, the only access available to most groups in the developing countries was through the 1503 procedure which meant that most of the information received was locked away in the confidential files. To the extent that publicity was power in the business of human rights, that meant that the procedure providing the greatest access was the least effective. Such discrimination might be overcome by providing public reports in summary form of all 1503 communications received by the Centre and by allowing public discussion of individual communications. A further suggestion would be that all people and grassroots organizations in all countries should be given equal and effective access to the United Nations human rights programme through decentralization of the activities of the Commission and the Sub-Commission. Such decentralization could include, for example, holding some of the sessions of the Sub-Commission's working groups away from Geneva in order to reach regions and organizations not adequately represented in Geneva or by convening special sessions of the Sub-Commission at the regional level.

70. In conclusion, he drew the attention of the Sub-Commission to document E/CN.4/Sub.2/1990/NGO/3 which contained some ideas for the proposed World Conference on Human Rights. Such a conference would be useful as a way of evaluating the existing human rights machinery and developing new approaches. It should not concentrate on standards but on making existing standards more effective.

71. Mr. YIMER asked the Chairman to ensure that representatives of non-governmental organizations and the observers of States be given the floor only after it had been ascertained that they were duly accredited.

72. Mr. MENDOZA (Observer for El Salvador) said that the violent military offensive launched by the Frente Farabundo Martí (FMLN) on 11 November 1989 had ended hopes of an early end to hostilities. In the declaration of San Isidro de Coronado, in December 1989, the Central American Presidents had appealed to the Secretary-General of the United Nations to exercise his good offices with a view to renewing the dialogue in El Salvador. Early in 1990, representatives of the Government of El Salvador, of the FMLN and the Secretary-General had signed an agreement in Geneva on the process of dialogue. The people and Government of El Salvador greatly appreciated the Secretary-General's participation in that event.

73. Article 1 of the Geneva agreement provided that the purpose of the process would be to end the armed conflict as soon as possible by political means, to stimulate the democratization of the country, to guarantee full respect for human rights and to reunite Salvadorian society. The agreement also stipulated that the initial goal of the dialogue would be to end the armed conflict and all acts prejudical to the rights of the civil population. The final object of the dialogue would be to reincorporate FMLN members into the civil, institutional and political life of the country.

74. Pursuant to the Geneva agreement, three dialogues had taken place early in 1990. The first, in Caracas, provided that the following seven points should be discussed, namely: armed force; human rights; judicial system; electoral system; constitutional reform; economic and social problems; verification by the United Nations. The meeting had also stipulated that the armed conflict should end before mid-September 1990 with a view to achieving an electoral, legislative and municipal process in an atmosphere of peace, full participation and freedom from intimidation, with particular reference to the elections to be held in March 1991.

75. The second dialogue had taken place in Mexico in May 1990 and had started to address the two first points. No agreement had been reached. Parallel to those meetings, the FMLN had been threatening to launch another military offensive.

76. The third meeting had taken place in Costa Rica where an agreement on human rights had been signed. In a press release, the representative of the Secretary-General had announced that first substantive agreement of the negotiating process had been reached. The agreement represented a commitment by the Government of El Salvador concerning respect for and guarantee of human rights. The agreement also stipulated that a United Nations mission would monitor human rights but would only start to function as from the cessation of armed confrontation. The Salvadorian people had urged the immediate implementation of point 1 of the agreement regarding human rights in the hope of putting an end to FMLN terrorism. Terrorist activities had however continued. The next dialogue was scheduled to be held in Costa Rica from 17 to 22 August 1990.

77. During the 1980s many distinguished citizens had been murdered but the Government of El Salvador had stated that it would give its support to pending judicial proceedings designed to shed light on those assassinations. Many of

the murders which had taken place in 1989 had been perpetrated by the FMLN which had claimed that such summary executions had been performed pursuant to decisions of its own courts. Those courts had been repudiated by international opinion as they did not comply with the minimum requirements of justice. The Salvadorian people hoped that the violence of the 1980s would not continue into the 1990s and that the process of democratization, already begun, would guide the future life of the nation.

78. Mr. van BOVEN, referring to the statement by the Four Directions Council, said it was his impression that at present non-governmental organizations and the observers of States were participating in the discussions of the Sub-Commission to a greater extent than were the members themselves. The Sub-Commission served as a forum for the exchange of views and all information provided, both by the observers of Governments and by non-governmental organizations, was therefore greatly appreciated. It might perhaps be worth considering whether in future the Sub-Commission might be able to obtain a broader range of information by means of hearings for both Governments and non-governmental organizations. Such hearings would of course have to be organized so that Governments and non-governmental organizations would know exactly when the Sub-Commission would be addressing certain issues. In that way repetition could also be avoided. One problem was that, currently, the Sub-Commission must await information before it could proceed to work. His suggestion, which would of course require further thought, would provide a full opportunity for all to contribute to the discussion on a particular situation.

79. Mrs. KSENTINI expressed the hope that Mr. van Boven would provide a more detailed outline of his proposal so that members could explore it fully.

80. Mr. EIDE said it was his understanding that all members were somewhat unhappy with the way in which the Sub-Commission was working. Serious events were taking place throughout the world and organizations were coming to the Sub-Commission for help. The Sub-Commission however had difficulty in sifting evidence and, on a number of occasions, the evidence had led to confrontation. It would therefore be useful for the Sub-Commission to ponder some of the questions which had been raised, including those made by the representative of the Four Directions Council. There were two aspects of the issue. The first related to presentations by non-governmental organizations and the second concerned the responses of Governments to those presentations.

81. On the first point, it would be very helpful if non-governmental organizations could be brought to understand the problems facing Governments in particular situations. It would also be useful if non-governmental organizations could draw attention in their presentations to what others, for example opposition parties, were doing in the human rights field in particular countries. It must always be remembered however that the Declaration of Human Rights had laid down that human rights must never be used to destroy human rights.

82. On the question of government responses, Governments could simply deny allegations, using familiar key words such as "fabrication" or "politically motivated", although that response had become much rarer over the years and Governments were becoming more constructive. Instead of denials, they were now indicating that problems existed and that they were taking steps to overcome them. In a number of countries with which the Sub-Commission had

dealt in recent years, negotiations were under way, as in the case of El Salvador. He felt, therefore, that on both sides of the political spectrum there were those who wanted a peaceful human rights-oriented solution and those who wanted to persist in confrontation and violence, possibly for reasons of personal prestige, through ideological blindness or for other reasons. It could not simply be said that Governments violated and non-governmental entities were victims all the time: the situation was more complicated on both sides. There might therefore be reasons for pursuing the idea of mediation and conciliation possibly on the lines suggested by the Four Directions Council. That course would, of course, not always be possible. For one thing, some Governments maintained a strong doctrinaire and confrontational attitude and were unwilling to accommodate people with different views on life. In such cases there would be little prospect of mediation. However, until very recently he had seen little prospect of mediation in South Africa, but now, even there, negotiations were taking place, so perhaps no case was completely immune to such possibilities, depending of course, on influence and pressures from outside.

83. He suggested, therefore, that the Sub-Commission should try to identify situations where there were such prospects and, in cases where there were none, to exert stronger pressure to bring them into a process of peaceful negotiation towards a human rights-oriented solution. Countries, Governments and peoples were increasingly recognizing that confrontation, violence and destruction impeded development severely and were probably the main causes of many of the developing countries' problems. Such a change of attitude might also help to improve the economic and social situation of the countries concerned, although it would also need a change in North-South relationships as well. The opposition movements should drop their attitude of confrontation and try jointly to find a common denominator with a view to improving the situation of the people of their countries.

84. Mrs. WARZAZI said that she was eagerly waiting for Mr. van Boven's explanation; she had been agreeably surprised by Mr. Eide's statement, which seemed to offer the right kind of approach and she therefore thought it would be wiser to listen to everyone - non-governmental organizations and Government replies - and thus ascertain what was true and what was not true. The Sub-Commission should not take any stand until everyone had been heard.

85. Mr. van BOVEN said that, since so many observers of States had requested to speak in exercise of the right of reply, he would postpone his statement. In any case, some of the situations on which those observers wished to respond would also be taken up later. For the purposes of an efficient debate, therefore, it would be best for the Sub-Commission to listen to as many views as possible and then draw its own conclusions. That in fact was the gist of his statement and was why the members of the Sub-Commission were for the time being remaining silent.

86. Mr. CHERNICHENKO, said that he had been impressed by some of Mr. van Boven's ideas and saw no contradiction between them and what Mrs. Warzazi had said. He agreed that the best way for the Sub-Commission to proceed would be to listen to the non-governmental organizations and to Governments, to obtain as much information as possible, and then decide what to do. At the present time, the Sub-Commission must decide what to do about urgent cases, whether to act itself or whether to refer them to the Commission on Human Rights for action.

87. He had listened to non-governmental organizations on numerous agenda items, some of them duplicating one another. In his opinion, it would facilitate the task of both the Sub-Commission and the non-governmental organizations if the debate on human rights could be concentrated under agenda item 6 - even if it meant spending more time on that item - so that the same information would not be given under different agenda items and duplication would be avoided.

88. The CHAIRMAN reminded observers that statements in exercise of the right of reply should not exceed five minutes.

89. Miss CHAALAN (Observer for the Syrian Arab Republic), speaking in exercise of the right of reply, referred to allegations against her country by Amnesty International and Pax Christi. The representative of Amnesty International had mentioned certain countries, including the Syrian Arab Republic, but had not mentioned the flagrant violations by the Israeli authorities against Palestinians in the occupied territories. Why should the representative of Amnesty International remain silent when her organization was supposed to defend human rights? Had the human rights situation improved? Had genocide, the murder of mothers and children, deportations, all ceased? The fact that there were documents on such violations did not dispense Amnesty International from speaking about them.

90. Regarding the allegations concerning human rights violations, the Syrian Arab Republic respected all human rights and the Constitution and the laws provided for all who violated them to be punished. Amnesty International should take care to provide more accurate information in future if it wished to maintain its integrity.

91. She said that the representative of Pax Christi had provided no proof in respect of the allegations made. She wished to confirm what everyone knew, namely, that Syrian citizens of Kurdish origin had the same rights and duties as all citizens. There was no discrimination on racial, religious or ethnic grounds. Syrian Kurds were fully integrated and worked for the development of the Syrian Arab Republic, holding posts at all levels in the army, administration and elsewhere. In conclusion, she said that Pax Christi's allegations concerning the need for the appointment of a special rapporteur were contrary to the facts and her country rejected them as interference in internal affairs and sabotage.

92. Mr. AL-DOURI (Observer for Iraq) said that reference to violations of human rights in Kuwait after the entry of Iraqi forces involved the Sub-Commission in matters outside its mandate. His country respected and defended the human rights of Arabs and foreigners in Kuwait and punished all who violated them. He read out an article from the International Herald Tribune which stated that there were very few checkpoints in the city, that even British and United States passport holders were not being harassed at them or elsewhere and that on the whole, the Iraqi troops had been courteous and friendly to everyone, including Kuwaitis, and for the most part appeared to be disciplined.

93. The speaker who had referred to Iraq knew more than anyone about Iraq's respect for religious and other principles and about the violations that had occurred under previous Governments. The words "ingratitude" and "treason"

applied to Kuwait, which, at a time when Iraq was defending it, was stealing Iraq's oil. He reserved the right to reply to a number of non-governmental organizations at a later stage.

94. Mr. BEN MALIK (Observer for Tunisia), referring to allegations made at the previous meeting by the Union of Arab Jurists concerning torture and other practices in Tunisia, described the achievements in the promotion and protection of human rights in Tunisia since the change that had taken place in 1987. His delegation had spoken on that subject and pointed out a number of misunderstandings, during the discussion of the initial report of Tunisia to the Committee against Torture under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 25 April 1990, and in the Human Rights Committee on 16 July 1990, during the discussion of the third periodic report under article 40 of the International Covenant on Civil and Political Rights. The Tunisian delegation had also submitted information to the members of the Committee against Torture, and the Committee had commented on Tunisia's remarkable achievements in absolute respect for human rights. The bodies he had mentioned always met in public when examining reports of States parties to international human rights instruments.

95. Mr. RASAPUTRAM (Observer for Sri Lanka) said that, in referring to his country at the previous meeting, the representative of Pax Christi had condemned violence and illegal use of force from whatever quarter. He would agree with that, particularly when a group in Sri Lanka bent on disintegrating the country suddenly decided to reject with violence and murder a political negotiating process which had been painstakingly built up over a long period of time. The representative of Pax Christi, however, seemed to have ignored that situation and instead had indulged in sweeping generalizations, for example, that the security forces had been given carte blanche. His country welcomed constructive criticism, but rejected sweeping allegations which masked the complexities of the situation.

96. The security forces of Sri Lanka had had to deal with an extraordinary law and order situation in 1989 at a time of heightened violence by subversive groups, but the Government had openly stated that there might have been a few cases of dereliction of duty. The law enforcement authorities were seeking to investigate those cases, a number of which were currently before the courts awaiting trial.

97. The representative of Pax Christi had also referred to detention and to certain emergency regulations, being probably unaware of the fact that, on the invitation of the Government, the International Committee of the Red Cross had been operating in Sri Lanka since October 1989, conducting a regular and comprehensive programme of visits to places of detention, and had submitted reports to the Government concerning possible improvements. The Government had also instituted an independent mechanism called the Independent Surrender Committee, consisting of representatives of all political parties, to reintegrate misguided young people into the mainstream of society. Many of the persons detained for suspected subversive acts had now been released and the Government was carrying out a comprehensive rehabilitation and reintegration programme.

98. With the return to normality in southern Sri Lanka, the Government had progressively repealed a number of emergency measures introduced at the time

of heightened violence in 1989. Perhaps the representative of Pax Christi was not aware that the emergency regulation to which he referred had been repealed.

99. The situation in Sri Lanka was a complex one, deriving from interacting social, economic, humanitarian and political factors. His country had endeavoured to deal with those issues on a broad front, with due regard to human rights. Over-simplification such as that of Pax Christi was not helpful.

100. Mr. JOINET, speaking on a point of order, said that it was useless to cite reports by the International Committee of the Red Cross, its reports being confidential to the State concerned, without indicating whether they were positive or negative. Mention of such reports did not constitute proof that the situation had improved.

101. The same comment would apply to all statements by observers.

102. Mr. BENHIMA (Observer for Morocco) said that the representative of Centre Europe-Tiers Monde (CETIM), with its traditional venom against Morocco, had raised the question of the 200 Moroccan prisoners of war in the hands of the Polisario, in a manner which ill-concealed the misrepresentations in which he had engaged earlier on in the Commission on Human Rights. That representative had mentioned the President of the International Committee of the Red Cross, Mr. Cornelio Sommaruga, by name and quoted part of a statement made by him on 13 February 1990.

103. His capacity as the official representative of Morocco and his respect for the code of conduct regulating the exercise of his functions precluded him from disclosing the substance of his discussions with Mr. Sommaruga and his collaborators. Those discussions had focused on the conditions for the release of the prisoners to the competent Moroccan authorities; proposals and counter-proposals had been made but no conclusion reached, because a gesture presented as being prompted by humanitarian concern had in fact been made with a view to gaining a political and media success for Morocco's adversaries. Morocco could not take part in such a sham, and the failure of the ICRC's efforts had been due to mishandling which could in no way be attributed to Morocco.

The meeting rose at 6 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 15th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 17 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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The meeting was called to order at 10.40 a.m.

1. The CHAIRMAN informed the Sub-Commission that the Bureau had made the necessary inquiries regarding the accreditation of the non-governmental organization Centre Europe-Tiers Monde, and confirmed that the letter accrediting the observer of that organization had indeed reached the Secretariat. That observer, who had been interrupted, could therefore complete his statement.

2. Mr. YIMER maintained that the observer had not been accredited at the time he had taken the floor and that his name had not been on the list of non-governmental organizations. It was not his intention to prevent observers for non-governmental organizations from speaking, but it was important to ensure that their accreditation had been duly established. There was nothing to show that the letter received by the Secretariat had not been written on the same day or backdated, and he was not convinced by the explanations provided by the Secretariat. Furthermore, it should be noted that non-governmental organizations could speak only once on item 6 and that the organization in question had already used up half of the time allotted for its statement.

3. Mr. ALFONSO MARTINEZ said that he understood and to a large extent shared Mr. Yimer's concern. To avoid any recurrence of such incidents, he proposed that the Secretariat should prepare a short note explaining the accreditation procedure for observers from non-governmental organizations wishing to participate in the Sub-Commission's discussions, and perhaps mentioning the relevant provisions of the Economic and Social Council, the Commission on Human Rights and the Sub-Commission itself.

4. Mr. SADI said he endorsed Mr. Alfonso Martínez's proposal, which was a very useful one. He would also like a list of non-governmental organizations to be issued, with the names of their observers and the positions they held in their respective organizations, so as to make the situation perfectly clear.

5. Mr. JOINET said the Sub-Commission should not forget that it was thanks to a very flexible interpretation of the accreditation of non-governmental organizations that some freedom fighters had been able to speak before it and that other victims of human rights violations could still do so. Too strict an approach might be dangerous and, for that reason the Sub-Commission should apply the existing rules with flexibility.

6. Mr. van BOVEN supported Mr. Alfonso Martínez's proposal, as such a note by the Secretariat ought to help to clarify the situation. He also felt, like Mr. Joinet, that the role of the non-governmental organizations had evolved over the years and had enabled the Sub-Commission to make substantial progress. Non-governmental organizations were entitled to be represented by persons of their choice, but they were expected to provide the Sub-Commission with information they had verified as objective, whatever the sources from which they had gathered the information. It was perhaps unwise for a non-governmental organization to be represented by someone who was directly concerned by the situation to which the organization in question was drawing the Sub-Commission's attention, since such a person was consequently a witness; there were other mechanisms such as the special rapporteurs and

the working groups to gather direct testimony on certain situations. Non-governmental organizations should not forget that they had a different role to play in a body such as the Sub-Commission.

7. Mr. TIAN Jin said he, too, endorsed the proposal by Mr. Alfonso Martínez. He would also like to know what happened when one non-governmental organization spoke on behalf of another. Did that mean that the latter organization would not be able to speak itself since, as Mr. Yimer had pointed out, non-governmental organizations could speak only once on an agenda item? He hoped that the note by the Secretariat would also clarify that question.

8. Mrs. WARZAZI requested that the Secretariat should also issue the text of Economic and Social Council resolution 1296 (XLIV), governing relations between non-governmental organizations and the subsidiary bodies of the United Nations.

9. The CHAIRMAN suggested that the text of that resolution should be appended to the short note to be prepared and issued for information purposes by the Secretariat. If there was no objection, he would take it that the members of the Sub-Commission agreed to that suggestion.

10. It was so decided.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10; E/CN.4/1990/3, 24, 25, 26, 27, 45 and Add.1, 52 and 55; A/44/620)

11. Mr. KHALIFA said that the most flagrant violations of human rights were the ones which had been committed against the Palestinians for more than 40 years. Those violations were in fact part of a policy which showed that the Jews, after a few moments of glory, were gradually losing their human and moral qualities. Certain bloody acts of aggression against Palestinians were said to have been committed by persons suffering from mental disorders, but what about the acts of blind violence perpetrated against children since the start of the Palestinian uprising that were described in detail in the report by the Swedish organization Save the Children? Actually, all those incidents stemmed from Israel's refusal to make progress towards peace and they indicated that a climate had been created in which madness was rewarded, to judge by the extremely lenient sentences imposed on those responsible.

12. The question of Palestine, however, was of crucial importance to the whole world, since it was not a simple regional conflict, and the recent events in the Middle East were largely a result of the international community's inaction. Others now were employing the language of force and arrogance that Israel had been allowed to use for so many years. Recourse to force was all the more dangerous in view of the current proliferation of non-conventional weapons, particularly nuclear, chemical and biological weapons, which were rapidly changing the strategic equation. The cost of victory or defeat had now become extremely high, not only for the Arabs and the Jews but for the whole world.

13. Israel must, however, understand that its iron-handed policy was futile and would lead nowhere because it was based on the mistaken idea that the Palestinians' feelings of nationhood would ultimately disappear. Nationalism never died, as had been shown recently by the Lithuanians. It might be asked in that regard why the world was so much concerned with the freedom of the Lithuanians and paid no attention to the freedom and the right to self-determination and self-defence of the Palestinians. Everyone knew that suspension of aid to Israel by the United States was the only way of persuading the Israeli Government to enter into talks with the Palestinians, but the resolution adopted recently by the United States Senate recognizing Jerusalem as the capital of Israel certainly gave no reason to hope that the United States would assume its responsibilities not only towards the Palestinians, but towards the rest of the world.

14. The situation was further exacerbated by the massive arrivals in Israel of Soviet Jews whom the USSR had recently allowed to emigrate and who were all being sent to Israel without being asked what they themselves wanted. No one had realized, however, that the exodus of Soviet Jews was detrimental to another people, and that hundreds of thousands of Palestinians would be forced to leave their homes to make way for millions of foreigners who would help to strengthen the Zionist dream. There was, nevertheless, reason to question the desire for integration of that mass of immigrants arriving in Israel. The scientists and academics Israel was inheriting free of charge from the USSR represented 41 per cent of the immigrant labour force and had actually been obliged to leave the USSR not because of their enthusiasm for the Zionist cause, but above all because of the gradual deterioration in their living conditions.

15. He also wondered why Israel, which had so little time for United Nations resolutions, when it came to implementing them, suddenly became so ardent in denouncing one particular resolution, namely General Assembly resolution 3379 (XXX), which described zionism as "a form of racism". Hitler's attempt to exterminate the Jewish people had deeply shocked the entire world. Acts just as monstrous, however, were being perpetrated today without anyone saying a word.

16. Experience showed that the future could have surprises in store. Who could have foreseen a year in advance that a few months would be enough to change the fate of the world? While the dreams of some people like Hitler, Stalin or Herzl sometimes became nightmares for others, there was one that would be prevented from turning into tragedy, and the Jewish State would never succeed in "aboriginizing" the Palestinians.

17. Mr. SADI said that, considering how many cases of violations were cited in all parts of the world, it was essential to refer to Commission resolution 8 (XXIII) and Economic and Social Council resolution 1235 (XLII) in order to keep firmly in mind the Sub-Commission's exact terms of reference and not go beyond them.

18. Regarding the situation in the Middle East, and especially in the occupied territories, he was particularly concerned by the tendency of members to become bogged down in routine. He urged them to look for new approaches and, in particular, to consider whether it would be appropriate to appoint a

special rapporteur to study the problem, since the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories had been deprived of the means to visit the region.

19. The Sub-Commission did have before it updated information on human rights violations in the occupied territories, but the occupation of those territories, which had now been going on for many years, no longer seemed to elicit any response on its part. Furthermore, it was surprising that the international community had been so little affected by the annexation of Jerusalem by the Jews and that the United States Senate had taken the decision referred to by Mr. Khalifa.

20. The Palestinian people were the victim of countless violations: denial of their identity, denial of nationality, occupation, expulsions, torture, and so on. And the immigration of Jews from the Soviet Union now presented new threats to them. Had any thought been given to the demographic implications of that influx? It was likely to upset the demographic balance in the region, especially in the West Bank, Galilee and the northern part of Israel, where the population was predominantly Arab. If every person was acknowledged to have the right to leave the country in which he was settled, as much thought should be given to safeguarding the population situation in host areas and the rights of the first inhabitants.

21. The members of the Sub-Commission should not to remain insensitive to the revolt of the Palestinian people, which was becoming more intense each year, and to redouble efforts to find a solution to that conflict, which had already lasted far too long. They might perhaps succeed where so many had failed and bring the parties concerned to the negotiating table. Politicization of the discussions was certainly to be avoided, but only a political solution could be envisaged in the circumstances, and the Palestinian people should at the very least be allowed to exercise their right to self-determination.

22. He appealed to members to ensure that the draft resolutions they would be submitting on that question were the fruit of their reflections on new courses of action.

23. Mr. SACHAR pointed out that, under the present agenda item, the Sub-Commission provided a forum in which the victims of human rights violations could address experts with the certainty that their cases would be given detailed and unbiased consideration. He would stress the crucial role of the non-governmental organizations, which at times spoke with a forcefulness that might offend some sensibilities, but which were none the less motivated by a concern for objectivity. He himself was a member of one such organization in India, the People's Union of Civil Liberty, and was familiar with their activities. It was, in his view, important to allow them to speak, but at the same time to call on them to show greater moderation.

24. In all countries, observance of human rights meant acceptance of the basic equality of all human beings and respect for each individual, whose development was possible only within a State governed by the rule of law in a democratic system.

25. It was futile to discuss human rights in the abstract, since no one would think of contesting them; it was in their actual implementation that the question of methods became important. There was no need to raise the controversy of bread versus freedom. The Universal Declaration of Human Rights recognized, in article 3, that everyone had the right to "life, liberty and security of person", and in article 23, the right to work. He was convinced that political and economic rights were indivisible and that bread and freedom were the two parts of a whole that was essential to man.

26. Freedom would, however, be meaningless so long as some sections of a country's population suffered from poverty and were exploited politically and economically by a small privileged group, and if human rights were to prevail it was not enough, as India had done, merely to say that there should be no discrimination on the grounds of caste or that untouchability was abolished.

27. Notwithstanding his esteem for American democracy, he deeply regretted that the United States had not yet ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, despite President Carter's efforts to that end. It was, however, gratifying to see that the Soviet Union now accepted all the implications of human rights, which according to Mr. Gorbachev's statement in June 1988 constituted the ultimate goal of the reform of the socialist political system.

28. As to the developing countries, respect for human rights should go hand in hand with an economic commitment on the part of society to feed, clothe and house each individual and to protect him against pollution of the air and water, thus enabling him to bring up his children in a healthy environment. Any advocate of human rights had to feel both anger at injustice and compassion for the most deprived.

29. The State's primary obligation in human rights was not so much to prevent discrimination as to guarantee the equality of the various sections of the population, and in that regard women must enjoy complete equality with men.

30. The study of human rights could no longer be the concern of researchers and theorists alone. It was essential to go out into the field and see what violations were being committed in order to remedy them. The non-governmental organizations had a large role to play in that regard.

31. He was convinced that the fight against injustice would succeed only when, as the philosopher Solon of Athens had said long ago, those who had been spared injustice themselves chose to fight for those who were the victims of injustice. Respect for human rights was the price of freedom.

32. Mr. EIDE said that he had been particularly struck by the statements by Mr. Khalifa and Mr. Sadi, who had raised a number of issues to which the Sub-Commission would have to give very serious thought, and had presented those issues with an impartiality and objectivity that had given their comments even greater force. He believed that, as a European, he had a particular responsibility in that regard, since the Europeans were partly responsible for the problem, having themselves discriminated against the Semitic peoples, especially the Jews.

33. Mr. Khalifa had urged that the individual should not concern himself only with his own rights, but also with those of others. In that regard, an important point had been made by the observer for one non-governmental organization who had said, albeit not with reference to the present agenda item, that in the Jewish tradition with which the observer was most familiar, there were two tendencies - one inward-looking and closed, and the other open to the world outside. It was precisely the struggle between those two tendencies that had to be examined in the context of the issues raised by Mr. Khalifa. The Israeli who had killed innocent civilians, for example, had no doubt been mentally ill, but the Sub-Commission's attention should focus on the context in which his illness had manifested itself. The escalation of an ethnic, tribal or other similar conflict might, at the psychological level, cause the individual to revert to an infantile state in which he would lose the many and varied reflexes of open-mindedness and tolerance he had gradually acquired since childhood. That phenomenon of regression, sometimes exploited by political leaders, produced results diametrically opposed to the ones which all the Sub-Commission's efforts were directed towards achieving. It was thus important to give careful thought to such considerations.

34. Mr. GUISSE said that, following the excellent statement by Mr. Khalifa, he wished mainly to draw attention to the fate of persons who defended human rights and who, for that reason, were the targets of an authoritarian power or extremism of various kinds.

35. He also wished to call the Sub-Commission's attention to what today constituted the most flagrant negation of human rights, namely summary executions, the victims being more especially people who were political opponents of the established authorities and whose only crime was usually that their ideas differed from those of the Government. After a period in which it seemed to have been in retreat, the death penalty was now coming to the fore, often in an uncontrolled manner. Moreover, whereas before it had been used to punish criminals, today's victims were political militants and opponents of régimes in power.

36. In addition to such forms of political discrimination, there was also a resurgence of racial or ethnic discrimination, two things from which men of a certain skin colour or from a particular ethnic group suffered constantly, both in their own land and abroad. Racism of that kind, found to varying degrees throughout the world, especially in the Western countries, owing to the new popularity of the most intransigent right-wing forces, reached its height when it was elevated into a system of government, as in South Africa and Palestine.

37. He agreed with Mr. Joinet that the non-governmental organizations were the Sub-Commission's best source of information. Such information could not all be used, of course, and it was up to the experts to separate the wheat from the chaff.

38. Mrs. BAUTISTA said that she was pleased to be back among the experts of the Sub-Commission. Considering the extremely delicate situation in which the international community once more found itself, the experts' task was more difficult than ever. She was nevertheless confident that they would continue to perform their duties with the independence, seriousness and dedication always characteristic of them.

39. Mr. SELASSIE (Centre Europe-Tiers Monde), resuming his statement, which had been interrupted the day before, said it was deplorable that the time allotted to him had been reduced as a result. In the massive and grave violations of human rights still being perpetrated against the Eritrean people by the Government of Ethiopia, the Ethiopian Air Force was engaged in massive bombing campaigns, largely targeting civilians in residential and commercial centres, killing hundreds of innocent men, women and children and leaving thousands maimed or homeless, as had been reported by the publication Africa Watch, on 24 July 1990. Following the capture of the port of Massawa by the forces of the Eritrean Liberation Front in February 1990, that city had been subjected to repeated bombardment aimed not at military targets but at the port facilities and relief food stored for famine victims. Indeed, the Ethiopian people themselves, and not only the Eritrean people, were being victimized by the policy of the Ethiopian Government, which was sacrificing the interests and the lives of the people to that policy. As noted in Africa Watch on 1 June 1990, the forcible recruitment of young men and boys into the army involved systematic violations of human rights, and it was incumbent upon the Sub-Commission to do everything possible to stop that outrage.

40. In looking into the continued violations of the human rights of the Eritrean people, it was necessary to examine the root cause and to bear in mind that the United Nations had a historical responsibility, as had been emphasized in 1980 in a historic verdict by the International War Crimes Tribunal, of which Mr. Joinet had been a member. The Eritrean people had wanted freedom, but a lop-sided federation had been imposed on them in 1950 by the United Nations. The Eritrean case was in fact similar to that of Namibia and the Sub-Commission must take up the challenge of remedying the wrongs of the past and preventing further unnecessary bloodshed.

41. His organization therefore appealed to the Sub-Commission to adopt a resolution on Eritrea that would condemn the policy and practice of human rights violations by the Ethiopian Government; decide to dispatch a special mission to investigate those violations; decide to put the Eritrean question on the agenda of its next session and recommend that the Commission on Human Rights include that question in the agenda of its session in February 1991; and recommend the appointment of a special United Nations commission to supervise a referendum to enable the Eritrean people freely to exercise their right to self-determination.

42. In conclusion, he wished to address the expert from Ethiopia in person.

43. Mr. YIMER, speaking on a point of order, said that the observer for the non-governmental organization who had just spoken was clearly not familiar with the Sub-Commission's rules of procedure since, first, he was not entitled to address an expert, and second, it was not the experts but the observers for the States concerned to reply to non-governmental organizations, although in point of fact, the statement which had just been made did not merit a response.

44. The CHAIRMAN pointed out that, on the previous day, he had appealed to all speakers to respect the independence and integrity of the members of the Sub-Commission.

45. Mr. DESPOUY said he supported what had already been said on the question by the majority of members of the Sub-Commission and agreed with the Chairman that speakers must refrain from making any personal references in their statements.

46. Mr. JOINET expressed regret that, during his absence the observer for a non-governmental organization, without having spoken to him first about the matter, had referred to his participation 10 years earlier in a session of the Russell Tribunal on Eritrea.

47. Mr. BOS (Baha'i International Community) said that for the past 11 years the Baha'i community had been the victims of institutionalized persecution in Iran which would have assumed the proportions of genocide had the international community not intervened. In his report on the human rights situation in the Islamic Republic of Iran (E/CN.4/1990/24), the Special Representative of the Commission on Human Rights had observed a move towards de facto tolerance. The situation of the Baha'is had indeed improved inasmuch as the number of persons in detention had fallen. Yet the community was still being persecuted as a religious minority, the inherent human dignity of its members was not recognized and they were being denied rights enjoyed by the rest of the population, such as the right to enrol in the universities, to be issued with passports or to hold certain jobs. Although the authorities accused the Baha'i community of being a subversive political organization serving outside interests, the Baha'is were actually being persecuted in Iran for their religious beliefs. The Baha'is wanted only to enjoy the same human rights as their fellow citizens, including the right to practise their religion, and to be able to devote their energies to rebuilding the nation of which they formed a part. He called on the Sub-Commission and the international community as a whole to exercise continued vigilance to ensure that that aim could be achieved for the benefit of all concerned.

48. Mrs. FERRIOL (Observer for Cuba), making a statement equivalent to the right of reply, said that she was concerned to see how the protection of human rights was being manipulated for aggressive political ends. Leaving aside the list of countries covered by Amnesty International's annual report, for example, the observer for that organization had on the previous day focused on the cases of three persons in Cuba, giving the impression that the three cases illustrated serious violations of human rights that would never have been perpetrated except by the South. Yet those persons were not "prisoners of conscience", since there were none in Cuba; instead, they were persons sentenced, under due process of law, for having spread false information through the foreign press.

49. Mrs. RADIC (Observer for Yugoslavia), making a statement equivalent to the right of reply on the matter of Kosovo, said she wished to call attention to the ill-treatment and discrimination of all kinds which had been inflicted on the Serbs and Montenegrins by the Albanian minority with complete impunity until Yugoslavia had become a State under the rule of law and the Government had taken matters in hand. Today, no discrimination was tolerated from any side. The special measures taken in full conformity with article 1, paragraph 4, of the International Convention on the Elimination of All Forms of Racial Discrimination and the presence of the police in Kosovo served no other purpose but to establish equality between the citizens of Kosovo and to

prevent an armed confrontation. The dissolution of the Parliament and Executive Council of Kosovo had affected not only the Albanian minority, but all the inhabitants of Kosovo, and it was due to the fact that the Federal Parliament could not allow the integrity and sovereignty of Serbia and Yugoslavia to be challenged by the proclamation of a republic in Kosovo.

50. She urged the non-governmental organizations to observe the sacred principle of State sovereignty and not, on the pretext of defending democratic aspirations, to advocate self-determination for minorities, a principle that was not recognized by international law.

51. Mr. LE LUONG MINH (Observer for Viet Nam), making a statement equivalent to the right of reply, said that, contrary to the claims made by the observers for the International Federation for Human Rights and Amnesty International, there was not a single political prisoner or prisoner of conscience in Viet Nam. If intellectuals had been imprisoned, it was simply because they had been sentenced, under the terms of the Penal Code, more particularly for breaches of national security or the social order. His Government had always tried to ensure the equality of all citizens before the law, but sought to distinguish between the exercise of fundamental freedoms and misuse of those freedoms in order to spread disorder.

52. The camps served the purpose of re-educating war criminals who, if tried, would not have escaped the death penalty. Most of the inmates had been released and the release of the others was being contemplated. The camps had now almost all been transformed, notably into production centres or into medical centres for the treatment of drug addicts. Furthermore, some laws, including the law on re-education, would shortly be amended.

53. With regard to the specific cases mentioned by the observers for the non-governmental organizations in question, he suggested that those observers should check their sources and note that their information was mistaken.

54. Mr. AL-SARAWI (Observer for Kuwait), making a statement equivalent to the right of reply, said that the events now taking place in Kuwait were a violation of the rights of a whole people and ran counter to the most basic provisions of the relevant international instruments. It was sufficient to see the reports in the media, which had covered Iraq's invasion very well and had reflected the atrocities committed by the Iraqi forces. The occupier had even refused to allow representatives of the Red Cross into Kuwait to determine what humanitarian measures should be taken.

The meeting rose at 1 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 17 August 1990, at 4 p.m.

Chairman: Mr. TÜRK

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The meeting was called to order at 4.30 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10; E/CN.4/1990/3, 24-27, 45 and Add.1, and 52; A/44/620)

1. Mr. EPSTEIN (International League for Human Rights) said that the Sub-Commission had often demonstrated the kind of leadership expected of the United Nations in the field of human rights. In 1989 it had shown vigour in adopting resolutions on human rights violations in China, Iran, East Timor, and Guatemala. It was to be hoped that its decision not to take action critical of the outrageious human rights situation in Iraq would be corrected at the present session.

2. In its resolution 1989/5, the Sub-Commission had requested the Secretary-General to transmit to the Commission on Human Rights relevant information from reliable sources on the situation in China. The International League for Human Rights (ILHR) was one of those whose information had been included in the Secretary-General's document (E/CN.4/1990/52). On 2 September 1989 the Chinese Government had declared that the Sub-Commission's resolution brazenly interfered in China's internal affairs and ran counter to the purposes and principles of the Charter of the United Nations and violated the norms governing international relations. It had declared it to be illegal and null and void (A/44/504, 6 September 1989). In a letter to the Commission dated 23 January 1990, China had again rejected the resolution and impugned the integrity of the members of the Sub-Commission, stating that a few of them had "plotted" and imposed "their own will on the Sub-Commission to serve their political aims" (E/CN.4/1990/55). That argument denied the universality of human rights and the work of the Sub-Commission. Some Chinese officials had defended the repression by placing China above international scrutiny and international norms, arguing that China had its own system of human rights.

3. ILHR's continuing examination of human rights conditions in China revealed that the Chinese Government's violent suppression of human rights in June 1989 had been replaced in 1990 by less violent but equally vigorous and oppressive measures with regard to freedom of opinion, expression, peaceful assembly and association. The Chinese Government had asserted that the allegations of human rights violations in China were based on "groundless rumours". As the documentation demonstrated, that claim was patently incorrect. The material provided to the Secretary-General, as well as that gathered since, was based on numerous detailed, eyewitness accounts, official Chinese Government laws, policies and actions, and the Chinese media. The hard evidence was overwhelming and incontrovertible. ILHR urged the Sub-Commission to seek further transmission of information on the situation in China to the Commission on Human Rights.

4. Since martial law had been lifted in Beijing and Lhasa, a total of 881 persons detained in the aftermath of the events of 4 June 1989 were officially reported to have been released. However, the Chinese Government continued to refuse to produce lists of the detainees released and of those

who remained in detention; further, it refused to confirm the whereabouts of many of those who had been detained. Although the release of significant numbers of political detainees was a welcome humanitarian development, it was a cosmetic gesture masking the systematic political repression which continued to result in serious infringements of human rights. Many detainees had been released only with onerous conditions as to re-arrest. Some had been re-detained afterwards. Martial law restrictions on freedom of association and assembly and on freedom of expression had been codified into regular statutes. ILHR, together with the Ad hoc Study Group for Human Rights in China, had prepared some documentary material on the nature and extent of the repression. It was available to those who wished to obtain copies. Much of it detailed reprisals by the Chinese Government against persons who had been active in, or sympathetic to, the aims of the pro-democracy movement.

5. The Chinese Government's intention to suppress the expression of diverse political opinions had also spilt over into Hong Kong. Despite the Governor's assurance that the Hong Kong Government would not interfere with activities to commemorate 4 June, a Christian pro-democracy group had been refused permission to use a stadium for a prayer meeting in that connection. Also, Hong Kong police had confronted protesters outside the offices of the New China News Agency and had demanded names and identity cards while filming the protesters. Furthermore, the Hong Kong Government had gone ahead with two unprecedented prosecutions which seriously stifled freedom of expression.

6. Reprisals had also been extended to China's overseas students. The Chinese Government intimidated and harassed them and threatened them or their families. In Japan, Chinese officials had visited campuses and had conducted individual interviews in which threats were reported to have been made.

7. The problems facing Chinese students made their need to obtain political asylum abroad more compelling. Information obtained by ILHR indicated that the Japanese Government had already refused requests for visa extensions from Chinese students and scholars who claimed a well-founded fear of persecution if they returned to China. There were reports that Japanese officials argued that some of the students concerned could not apply for refugee status because they had not done so within 60 days of their arrival in Japan, even though they had arrived with valid academic visas. ILHR therefore urged the Government of Japan to adopt measures to ensure that Chinese students were interviewed by trained immigration specialists familiar with their situation and that any of the students now in Japan who had a well-founded fear of persecution be afforded full protection in accordance with international law and practice regarding refugees and asylum-seekers.

8. Ms. HATFIELD-LYON (Minority Rights Group) said that her organization wished to raise four minority issues that it had raised in the past.

9. The Minority Rights Group (MRG) had first published a highly critical report on the treatment of Romania's ethnic Hungarians in 1978, when countries in the West were still fêting President Ceausescu. The minority rights situation in Romania had deteriorated in the 1980s, and at the end of 1989 MRG had published a new report documenting the situation. There had also been terrible attacks on gypsies and ethnic Hungarians, as well as on ethnic Romanians, and some suggestions of anti-semitism.

10. Romania had immense problems to tackle with regard to the human rights of both the majority and minority communities. The plight of tens of thousands of children in orphanages was indicative of that. Resources were needed for all communities, and especially to encourage intercommunity co-operation. The Romanian Government had welcomed the continuation of the role of the Special Rapporteur appointed by the Commission on Human Rights and had made strong statements of principle. The Minority Rights Group therefore urged the Sub-Commission and the Commission to monitor the situation in Romania closely.

11. The Sub-Commission was to be congratulated on its constant concern for the Mayas of Guatemala. Despite the initial hopes, their situation had not improved after the elections of 1985. MRG's report on the Mayas of Guatemala, which had been presented to the Commission in February 1990, was consistent with the report prepared by the Expert on Guatemala; however, it found, as regards the Maya, that since the 1980s as many as 20,000 indigenous persons had been killed or had disappeared, that indigenous peoples had been incarcerated in model villages in a deliberate attempt to destroy their culture and way of life, that the collective land holdings of indigenous peoples faced new pressures through expropriation, population growth and agro-industrial mechanization, and that over 600,000 Mayans had been forced into exile. The Commission had decided to offer advisory services, since it had not been possible to determine whether it was the army or the Government that was abusing the Maya. In his report (E/CN.4/1990/45 and Add.1), the Expert on Guatemala had pointed out that the ultimate responsibility for the promotion and protection of the rights of the Maya rested with the Guatemalan Government. That had always been the case under the international rule of State responsibility in respect of human rights. The Maya continued to be the subject of gross abuse of economic, social and cultural rights and of civil and political rights. MRG therefore urged the Sub-Commission and the Commission to monitor the situation closely.

12. In 1989, MRG had presented the situation of the bedouin Arabs of the Negev, highlighting the urgent need for them to be granted land rights in, Israel under Israeli law in respect of rights which had been traditionally recognized by former Ottoman and British authorities. MRG had also made specific proposals on the need for bedouin living in official settlements to be enabled to elect their own councils and to be given adequate control over their own budgets. Recently, however, MRG had been disturbed to receive reports of a major housing crisis in Israel. It was felt that the new Minister of Housing, in particular, would not be sufficiently concerned about the fate of the bedouins or their land rights. MRG sincerely hoped that such apprehension was misplaced and suggested that the Sub-Commission should invite the Israeli Government to give a full explanation of how the land rights of minorities, especially the bedouins in the Negev, were to be protected.

13. In 1989, MRG had addressed the Sub-Commission and the Commission on the gross violations of human rights, including acts of genocide, in Iraq. In particular, it had drawn attention to the use of chemical weapons against Kurdish combatants and civilians and noted that Iraq had denied using chemical weapons but had refused unrestricted access by United Nations observers and others to investigate the allegations. MRG had further stated that if action was not taken against Iraq it would continue to use chemical or biological weapons and threaten peace and security. Since then, other independent sources had corroborated MRG's research. The Iraqi Government's response to

the Commission and Sub-Commission had been discredited and evidence of further abuses had come to light. Kurdish communities within Iraq had been forcibly relocated on a massive scale, and those who had resisted had suffered total annihilation. Schools, mosques and hospitals had been systematically destroyed. It was conservatively estimated that over 700,000 Kurds were currently living in resettlement camps in utterly barbaric conditions. Dozens of children had died in the past few months alone. Reports continued to be received of individuals being arrested and executed without trial or simply disappearing after returning to Iraq under the various official amnesties. MRG had figures establishing a total of 7,522 Kurds who had been arrested, executed or had disappeared in that manner since 1988.

14. In view of the Iraqi invasion of Kuwait and the Iraqi Government's justification of it, it should come as no surprise that a State that could commit acts of genocide against its own minority might have no regard for the rights of people of neighbouring States. The world community should have stood up and been counted in 1989. With the new evidence and the confirmed research, MRG recommended that a special rapporteur should be appointed for Iraq to monitor the current situation with a view to inhibiting further abuses against Kurds, that Iraq should be condemned for its gross and systematic violations of human rights, its use of chemical weapons, its invasion of Kuwait and its abduction of people, including minorities, and that the Sub-Commission recommend to the United Nations Security Council that it should seek an advisory opinion from the International Court of Justice under Article 96 of the Charter of the United Nations to ascertain whether the acts complained of constituted acts of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide.

15. Ms. FAUCHERE (World Confederation of Labour) said that although the overall human rights situation had undoubtedly improved in recent years, large numbers of people were still being held in prison in inhuman conditions, were the victims of all kinds of physical and moral violence, or were paying with their lives for their aspirations to freedom and democracy. Political leaders did not always appreciate their citizens' appeals for more freedom and democracy. Some tried a "carrot and stick" policy. Others brutally repressed all demonstrations, as had happened at Lubumbashi in Zaire in May 1990.

16. The Government of Kenya had also brutally repressed pro-democracy demonstrations at the beginning of July, and too many well-known people were dying in so-called "accidents" in that country. In Cuba, President Castro, by refusing Cubans who had sought refuge in various embassies the possibility of leaving the island, had publicly announced that he was not respecting fundamental freedoms and rights. In Romania, although the Government had made a gesture by releasing the student spokesman Marian Munteanu, hundreds of persons who had dared to display their disagreement with the Government were still in prison. Moreover, the Government, instead of providing the guarantees needed for the exercise of democracy, had sent armed workers' militia to help the police to smash demonstrations in Bucarest.

17. The World Confederation of Labour (WCL) called on those Governments to release all political prisoners and to provide real evidence of their will to move towards genuine democracy.

18. WCL was also concerned about the fate of the Tuareg population in Niger and Mali, which was being subjected to indiscriminate repression. The

Governments of those countries should stop the murders and the Sub-Commission should take the necessary measures to shed light on who was responsible for them.

19. The civil war in Liberia was giving rise to a train of horrors and atrocities. Of the many massacres that had taken place, the massacre of civilians in the Lutheran Church at Monrovia had been one of the culminating points in the fratricidal struggle. WCL was very concerned about the terror reigning in the country and about the fate of members of several of its affiliated organizations. It urged the Sub-Commission to do everything it could to stop the massacres of civilians, whose only offence was to belong to a people different from that of the aggressor.

20. The gross and repeated violations of human rights in Colombia were also a source of concern. The Government had continually affirmed its attachment to human rights. However, WCL would like to see that affirmation translated into action, so that fundamental rights could be respected. Unfortunately, despite the efforts being made by the authorities to identify those responsible for violations of human rights and extrajudicial executions, cases of torture and disappearances continued to occur almost with impunity. At the International Labour Conference in June 1990, a Colombian trade union leader had denounced the physical violence practised by terrorists in the pay of drug traffickers and by military, paramilitary or guerrilla groups, which was increasing hunger and poverty and causing the social structure of the country to disintegrate. At the same Conference the spokesmen for the Colombian trade union organizations had called on everyone to try and stop the violence in Colombia. WCL transmitted that appeal to the Sub-Commission in the hope that it would take whatever measures it could to help to put an end to the violence.

21. Her organization continued to be seriously concerned at the massive violations of human rights which had been occurring in Iraq for many years past. Thousands of people had disappeared and there had been many victims of mass executions. Since 1980, hundreds of children had been tortured and executed. In the south of the country scores of villages had been destroyed in 1989, families had been broken up and members of the opposition executed. Chemical weapons had been employed. Her organization therefore urged the Sub-Commission to take all necessary measures to put an end to such violations of human rights, including the appointment of a special rapporteur.

22. Massive violations of human rights continued in the Islamic Republic of Iran. On 5 May 1990, the Assistant Attorney General had announced on the State radio that, in recent months, 1,200 persons had been executed and further executions would take place in the following two months. Between January and May 1990, following the visit to Iran of the Special Representative, Mr. Galindo Pohl, there had been 206 public executions. Brutal punishment, including decapitation, stoning and amputations continued. There had also been a resurgence of terrorist activities against opposition members abroad. Against that background, she urged the Sub-Commission to take decisive action by adopting a resolution firmly condemning the continuing violations of human rights in the Islamic Republic of Iran.

23. Mr. TZELIOS (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) said that the purpose of his statement was to point to continuing violations of basic human rights in Albania, Cyprus and South Africa.

24. The Albanian Government, under the pressure of world opinion, had permitted many Albanians who had taken refuge in Western embassies to leave the country. His organization had evidence however that a reign of terror had been unleashed throughout the country simultaneously with that decision. Hundreds of arrests had been made since July 1990 and there had been brutal violation of the rights of the Greek minority in particular. Greek patients in a hospital in the city of Sarandes had been treated like prison inmates while their Muslim counterparts had been given proper care. The Albanian Government, having failed totally to assimilate the ethnic Greeks by force, had adopted a more sinister option, namely, massive expulsion and uprooting of those people from their ancestral homes. His organization implored the Sub-Commission to urge the Government of Albania to improve the living conditions of the Greek minority and, in particular, to end their forced assimilation or expulsion. Gaining a passport and an exit visa was not a substitute for the improvement of human rights within the country. In those circumstances the question might be asked how the Albanian Government could expect the world to believe that it was reforming and moderating while police brutality continued. His organization had acquired credible information about the continued existence of brutal labour camps in northern Albania where hundreds of recent detainees had been transferred. It therefore urged the Commission on Human Rights to request the Albanian Government to open those slave labour camps to inspection and to release immediately approximately 80 detainees who had been incarcerated for over 40 years. It also urged that the families of executed political prisoners be allowed to reclaim the remains of their loved ones and that a multinational committee of clergymen be allowed to visit Albania to verify the sincerity of the Government which, in May 1990, had promised to permit some religious freedom.

25. The Turkish occupation forces in Cyprus continued to ignore the pleas of thousands of refugees seeking to return to their homes and the demands of the Turkish Cypriots to be left alone by the Government of Ankara. The latter continued to treat northern Cyprus as a Turkish province and to send settlers in violation of the rule of law and its own word. Turkey should respect the rights of its own ethnic groups including, in particular, the Kurds. It should also respect the sovereignty and national integrity of Cyprus which it had occupied for 16 years notwithstanding the constant protests of the international community.

26. His organization supported the dialogue that had started in South Africa for the purpose of creating a new State, free from apartheid and based on the principle of one man one vote. The world community must however closely monitor the transition process from oppression to freedom.

27. Ms. GUZMAN (Latin American Federation of Relatives of Disappeared Detainees) said that, notwithstanding the 1986 undertaking by the Government of Guatemala to respect human rights, following which the mandate of the Special Rapporteur for Guatemala had been terminated, the Mutual Assistance Group of relatives of disappeared persons had reported that forced disappearances, assassinations and death threats continued while nothing had been done to clarify the fate of about 40,000 detainees.

28. On 2 June 1990, the Vice-President of Guatemala, Roberto Carpio Nicolle, had given assurances to the Mutual Assistance Group that he would conduct consultations with a view to establishing a commission to investigate disappearances in Guatemala. To date, no such commission has been set up. Moreover, President Cerezo had given a personal undertaking to the mother of José Alberto Camarda Atencio to investigate and report on his disappearance in June 1988 but no news had yet been forthcoming.

29. The relatives of Guatemalan disappeared persons had always shown their readiness to collaborate in clarifying the facts regarding disappearances but such activities had often resulted in their own deaths, as in the cases of Gomez Calito and Rosario de Cuevas.

30. It was also worthy of note that the notorious General Efrain Rios Montt, who had seized power by force in 1982, had kept Guatemala under a permanent state of emergency while in office and had created the special courts which had tried and executed many Guatemalan citizens, intended to participate in the election.

31. Notwithstanding the ongoing dialogue in El Salvador between the Government and the Farabundo Marti National Liberation Movement (FMLN), violations of human rights continued. Death threats had been received by members of her organization and of other humanitarian agencies on the grounds that they had been acting as cover for the FMLN. Those organizations therefore urged the Government and the FMLN not to allow their negotiations to become bogged down; to permit relatives of the victims of the armed conflicts to participate in those negotiations; to end the immunity of senior military officers involved in human rights violations; to reduce the armed forces and dismantle the death squads; to make structural changes in the currently ineffective judicial system; and to investigate and punish those guilty of assassinations, forced disappearances, torture and other human rights violations. The United States of America should also be asked to terminate its military aid to the Salvadorian army.

32. In Haiti, violations of human rights continued, with assassinations, forced entries into the homes of members of humanitarian organizations and persecution of many of them. It was essential that the pleas of the people of Haiti for truly free elections which would guarantee a really democratic Government should be heeded.

33. In Chile the work of the "Truth and Reconciliation Commission", including in particular, its discovery of mass graves, had produced proof that the allegations which had been made over the past 15 years had not been exaggerated. Mass graves had also been discovered in Paraguay but unfortunately the political will did not exist for a real investigation which would make it possible to elicit the truth and punish those guilty.

34. Although it continued to have a civilian Government elected by universal suffrage, Colombia represented one of the worst cases in the Latin American region. In 1989 an average of eight persons a day had died for political reasons, two as a result of confrontations between the army and insurgent groups and many others for a variety of reasons. In addition there had been 70 massacres involving the deaths of 500 individuals.

35. The situation in Peru was serious. In 1989 alone, 3,198 individuals had suffered violent deaths while the Attorney-General's office, making a conservative estimate, had put the number of disappearances at 2,714. The zones of Ayacucho, Apurimac and Huancavelica continued to be the worst affected and the situation was extending dangerously to other departments. It was the hope of her organization that President Alberto Fujimori would give the relatives a hearing and find an early solution.

36. In conclusion, she urged the Sub-Commission to consider practical measures with a view to ensuring that the recommendations and suggestions of working groups and Special Rapporteurs were complied with by the Governments concerned.

37. Mr. RIVAS POSADA (Observer for Colombia) said that his country was afflicted not only by the violence associated with rapid modernization and by the difficulties common to third world countries seeking to provide their peoples with rising living standards at a time when economic and social development was inhibited by inadequate resources, but also by the illicit traffic in drugs and the related terrorist activities which sought, by every possible means, to destroy the institutional life of the country. The problem affected all countries in one way or another and was thus well known to international opinion which had shown sincere understanding of the magnitude of the threat in Colombia and its sympathy for the sufferings of the Colombian people.

38. As the situation was not only extremely complex but also in a state of constant evolution, his Government had always been ready to collaborate in every possible way in order to elucidate facts, explain actions and deal with legitimate claims. Its open-minded attitude had been reflected in the continuing flow of information to the Centre for Human Rights and other United Nations bodies as well as to ILO and UNESCO. Colombia had never denied facts which had caused justifiable concern to the international community, other than unjust allegations regarding State complicity in the traffic. It had not therefore been difficult for the Government to maintain a policy of complete transparency in terms of information and the provision of facilities to any international agency wishing to visit the country and seeking such evidence as it might need on the issue of human rights. The invitations to different groups and individuals and the reports of those missions were adequate testimony.

39. Since the last session of the Sub-Commission, many events, both negative and positive, had occurred in Colombia, but hopes had been raised that civilian life might return to normal. The major and most serious event of the year had been the government offensive against the drug traffickers following the assassination of Luis Carlos Galán. The reaction of the drug mafia had been terrorism on an unprecedented scale. The struggle waged by the Government had, however, made it possible to establish the long-term and clear responsibility of the drug criminals for the training and financing of the so-called paramilitary or private defence groups which had committed innumerable crimes of every kind. What had earlier been unbelievable to certain sectors of international opinion namely, the direct responsibility of the drug traffickers for the operations of those groups had soon become incontrovertible evidence. The open participation of those groups in massacres of civilians, attacks on the judiciary and assassinations of the

leaders of all political groups had culminated in their horrifying offer of rewards for attacks on the National Police in an unprecedented challenge to law and order.

40. On the other hand, strictly political violence, by the guerrilla movements, had diminished as a result of the pacification process initiated by the previous Government, culminating with the signature of a political agreement with the M-19 movement for its demobilization, the surrender of its weapons and the reinsertion of its members into civilian life. Dialogue was proceeding with three other armed groups and it only remained to negotiate similar arrangements with the two remaining groups which continued to pursue their destabilization objectives by force of arms.

41. The Government had never denied the possibility of individual involvement by members of the forces of law and order in the criminal acts of the groups sponsored by the drug traffic. It had always roundly condemned such activities and had taken all necessary measures to neutralize them. In recent weeks, spokesmen for those irregular groups, which comprised a strange mixture of drug traffickers, right-wing ideologists and landlords who believed that the only way to combat the guerrilla menace was by violent means, had indicated their intention to suspend their activities in compliance with the Government's offer to reincorporate the armed groups into civilian life.

42. With the change of Government the week before, his country had entered a new phase. The new authorities had stated that, in general they would pursue the efforts of the previous Government with a view to restoring normality to the country with all speed. President Gaviria, upon taking office, had announced his intention of combating drug trafficking, bringing peace to the country, and convening a Constituent Assembly to bring about bold reforms of Colombian institutions. That threefold policy contained elements initiated by the preceding Government, as well as new features which were widely supported by the public.

43. In combating the narcotics trade and its noxious effects, the President had made a clear distinction between terrorism related to the traffic in drugs which caused so much suffering to the people and was essentially a domestic problem, and the universal problem of drug trafficking, which called for the active co-operation of the international community. Unless multilateral action was taken against drug trafficking, laundering the proceeds of crime, the sale of chemical substances, and the international distribution networks, there was no chance of winning the battle against a traffic that was undermining democratic society throughout the world. The new Head of State had warned the drug barons that their irregular armed groups would be dealt with with the utmost rigour; the entire force of the Colombian State would be used to disband those groups which, through the activities of the drug traffickers and certain sectors of the extreme right, had become powerful criminal organizations responsible for massacres, murders and atrocities of all kinds.

44. He renewed his commitment to continuing talks with those groups with a view to achieving peace. On the basis of peace agreements between the former Government and M-19, in an unprecedented decision the leader of the M-19 movement, Mr. Navarro Wolf, had been appointed Minister for Health in a cabinet containing representatives of other opposition groups, including the two splinter groups of the Conservative Party.

45. The Colombian authorities were not wasting time. For more than two years, they had been stepping up measures to investigate and punish those responsible for crimes. For example, between 30 September 1989 and 30 June 1990, a total of 67 officers and 64 NCOs of the armed forces had been court martialled for offences committed in the course of duty, as well as 114 officers and 172 NCOs of the police force and 1,622 policemen. Some of those tried had already been sentenced, as in the case of those responsible for the La Rochela massacre.

46. As well as strengthening the administration of justice, promoting human rights, working for national reconciliation and pursuing economic and social development to combat the causes of dissatisfaction among the population, Colombia would continue to co-operate closely with United Nations human rights organs, heeding their suggestions and hoping for the understanding that was essential for a just and impartial assessment of its situation.

47. Mr. MUYOVU (Observer for Burundi) recalled that at the Sub-Commission's previous session, his delegation had reported on his Government's progress in human rights since the advent of the Third Republic on 3 September 1987. Human rights had been restored, and the new régime was determined to resolve the question of national unity. A national commission set up to study the question had reported at the end of May 1989 on the causes of the divisions which had long undermined Burundi and submitted proposals and recommendations for bringing the country out of its impasse. The Head of State had given a firm undertaking to implement the recommendations. Measures had already been taken to ensure equal opportunity for all citizens in teaching, employment and security. Under the policy of political unity, Hutus and Tutsis were being appointed to senior posts in Government, Administration and the Party, not on the basis of ethnic origin but on standards of competence and personal merit, as appropriate candidates became available.

48. The Burundi Economic and Social Council, consisting of 54 members, had been set up with a view to proposing appropriate measures in the economic and social field, a National Security Council and a National Children's Council had been established and Burundi had become a party to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

49. A major development had been the publication in May 1990 of a draft charter of national unity, whose adoption by referendum at the end of the year would be an important step towards consolidating national unity and establishing democratic institutions. The referendum would be followed by the setting up of a constitutional commission to draft a new constitution, also to be submitted to a public referendum.

50. The policy of national reconciliation and democratization under the Third Republic was supported by the immense majority of the people of Burundi and by the international community. He now requested the Sub-Commission to take note of and to encourage the efforts of the Government of Burundi to combat ethnic divisions.

51. Lastly, he referred to the question of the Jehovah's Witnesses. A European delegation from Jehovah's Witnesses had recently had fruitful discussions with the appropriate authorities in Burundi. Nevertheless, the position of the Government was clear. Burundi was a secular State, in which

freedom of worship was allowed and many faiths coexisted. However, the exercise of that freedom was subordinated to respect for social organization, public order and national laws and regulations. It was true that some followers of Jehovah's Witnesses had been detained for a few days in 1989, but that was because they had infringed public order and the laws. At present no people were in prison in Burundi for reasons connected with the practice of their religion, because the laws and regulations were being better observed. The Government of Burundi, in full sovereignty, would grant or refuse authorization to the Jehovah's Witnesses. Its well founded decision would be conveyed to those concerned and to the Sub-Commission.

52. Mr. EIDE said that he was very grateful for the comprehensive responses from observer States to allegations and hoped that a further response might be received from the observer for Iraq.

53. He wished, however, to raise one more point: in 1989, most members of the Sub-Commission had received an invitation from an Iraqi non-governmental organization, the Human Rights Commission of Iraq, to visit the country. He himself, among other members, had felt that it would be interesting to visit Iraq but that conditions would have to be clarified before they could go there. He had submitted a number of conditions, but had received no answer, either from the non-governmental organization or from the Iraqi Government, and the matter had lapsed. It had, however, been raised again later when members received personal invitations to visit Iraq. A number of members of the Sub-Commission had attended a conference in Copenhagen at the beginning of April 1990 and had agreed that it would be best to delay any possible visit until the Sub-Commission could meet and discuss the question. While they obviously could not bind any other member, they had, as individual members, cabled all the other members informing them of their view and asking them to report if any disagreed. It transpired that some members had not received the cable and had felt that they were under an obligation to go to Iraq. He fully accepted that attitude. However, he understood that at least one member had been aware of the situation and had nevertheless decided to visit Iraq with the members who had not received the cable.

54 While individual members were entitled to decide and act accordingly, in the context of the situation even a private visit was a kind of fact-finding visit and he, personally, would have set the following conditions. He would not have travelled at government expense; he would have ensured that he was accompanied by an independent interpreter; he would have requested freedom to visit and revisit any place of interest at any time of his own choice; he would have requested freedom to ask any questions relative to human rights violations; and, even more important, in advance of such a visit he would have contacted the relevant non-governmental organizations, as well as Iraqi refugees, in order to find out to whom he should ask questions and how he should approach the problem in order to obtain as balanced a view of the situation as possible.

55. He now wished to put a question to Mr. Alfonso Martínez, who had visited Iraq, and he would also like some comments from the observer for Iraq. The Sub-Commission had again heard of chemical weapon attacks against Kurdish combatants and civilians and reference had been made to the inhabitants of Halabja. Iraq had denied the use of chemical weapons and refused United Nations observers and others unrestricted access to investigate those allegations. The Minority Rights Group representative had stated that all the

evidence, from journalists, medical experts and others, confirmed beyond any reasonable doubt that chemical weapons had been used. He would like to know whether his five pre-conditions had been followed by Mr. Alfonso Martínez; whether the Sub-Commission members who had been to Iraq and had actually visited Halabja considered that it could be assumed that chemical weapons had been used; whether as the Iraqi Government claimed, chemical weapons had been used by the Iranian Government; and whether anyone had asked if gas masks and other equipment had been distributed to the Kurdish population to protect themselves against the use of chemical weapons by the Iranians.

56. Mr. ALFONSO MARTINEZ said that he was under no obligation to answer Mr. Eide's questions and that a great many words would have been avoided if Mr. Eide had accepted the invitation from the Iraqi non-governmental organization and gained a personal impression of what was happening in Iraq. Indeed there was still time for him to go there.

57. He could not deny that he had received the cable, but it had tipped the balance. Initially he had felt that it was not possible to accept the invitation, but after receiving the cable he had accepted - for reasons that he would explain in private to some of his colleagues. He had felt that there had been a campaign against acceptance and his feeling had been confirmed on receipt of the cable. There was no need for members to report to the Sub-Commission on their visits to Iraq because the decision whether to accept or not had been an individual one. It had not been a fact-finding visit. His impressions were his own and he was under no obligation to report to the Sub-Commission. How he used the information he had gathered was a matter to decide for himself.

58. Mr. JOINET said that with a view to the vote on resolutions under agenda item 6, which once again concerned a "sensitive" issue, he formally requested, in accordance with rule 78 of the rules of procedure, which stipulates a minimum of 24 hours in advance, that the Sub-Commission should temporarily suspend rule 59 of the rules of procedure, with the express purpose of enhancing the independence of the experts, regard being had to the sensitive nature of those resolutions, such suspension being limited to the period required to vote on the draft resolutions under agenda item 6 during the present session.

59. Mr. GUISSE, speaking on a point of order, said that he was one of the members of the Sub-Commission who had been to Iraq. He would like to give an account of his visit and also to raise certain problems he had encountered at the following meeting.

The meeting rose at 6 p.m.